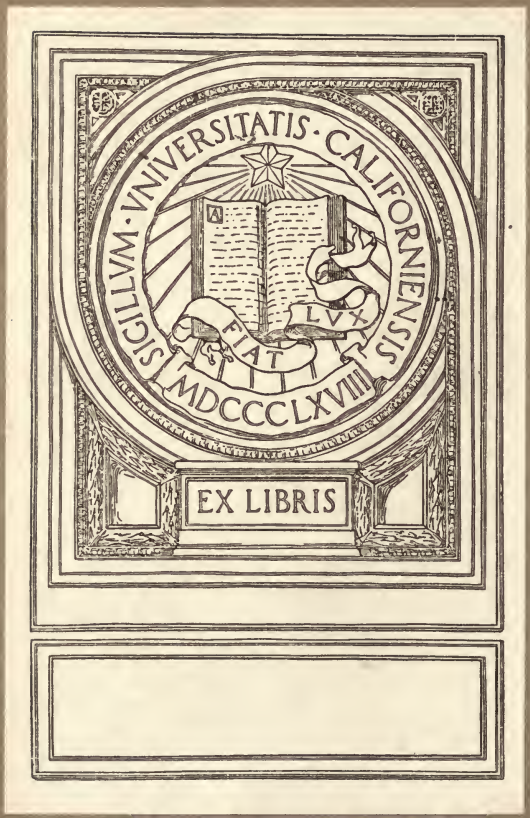
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THREE DECADES OF FEDERAL LEGISLATION.

BY

Samuel S. Cox.

UNIVERSITY OF CALIFORNIA

ENGRAVED FOR THREE DECADES

UNION—DISUNION—REUNION.

THREE DECADES

OF

FEDERAL LEGISLATION.

1855 TO 1885.

PERSONAL AND HISTORICAL MEMORIES OF EVENTS PRECEDING, DURING, AND SINCE

THE AMERICAN CIVIL WAR,

INVOLVING SLAVERY AND SECESSION, EMANCIPATION AND RECONSTRUCTION, WITH SKETCHES OF PROMINENT ACTORS DURING THESE PERIODS.

1855-1885
Brown

BY

SAMUEL S. COX.

MEMBER OF CONGRESS FOR TWENTY-FOUR YEARS.

AUTHOR OF "BUCKEYE ABROAD," "WHY WE LAUGH," "WINTER SUNBEAMS," "ARCTIC SUNBEAMS," "ORIENT SUNBEAMS," ETC.

UNIVERSITY OF CALIFORNIA

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PREFACE.

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It is said by a translator of Thucydides, that the sources from which the ancient historian gathered his narrative are very dissimilar to those at the disposal of the modern historian. The first were meagre and oral, the latter are often overwhelming to the compiler by the very mass of materials. Writers like Thucydides had certain aids, such as statues, buildings, columns from sepulchres, decrees of state, and traditions, but few written *data* comparable with modern libraries.

The author of this volume, unlike the ancient recorder, has had no need to draw upon his imagination in order to depict events, or give eloquence to his characters. He has had access to a multitude of books and other recorded evidences bearing upon his theme. He has also been quite near to the contending forces and persons, and in the very midst of many of the events which he narrates. He has written within reach of the Library of Congress, with its vast stores of material. He has had the same freedom of access to the House Library, and to collections of legislative and executive documents. No fact has been stated upon doubtful authority. All important statements have been made in the language of official reports of the executive departments of the government, of congressional investigating committees, of the witnesses examined before congressional or legislative committees, or of the proceedings of the state conventions and legislatures. In cases of conflicting testimony, the statements of witnesses or parties on each side have been considered or cited. No inference prejudicial to private character or public conduct has been drawn which has not been accompanied by indisputable facts.

In the preparation of portions of this work the writer has had the assistance of gentlemen with whom he is more or less associated in and out of Congress, and without whose aid he could not speak with such absolute certainty as to some of its verities.

The title — "The Three Decades" — indicates the scope of the volume.

The first decade begins with the organization of the Republican party at Pittsburgh, in the year 1855. This party was partly built upon the ruins of the Know Nothing and Whig parties; but the genius of the structure was the aggressive and intellectual anti-slavery zealotry which, though for a long time championed by few, had almost as long been a most potential factor in our politics. With this decade begins, practically, the era of sectionalism. It was marked by a sanguinary and prolonged internecine war. The year 1865 saw the termination of that war.

The second decade begins with the period of Reconstruction.

The third decade begins with that part of the period of Reconstruction when the unconstitutional exercise of the military power at the polls ceased. This was the one good result of the compromises which grew out of the Great Fraud perpetrated by means of the Electoral Commission.

From 1865 to 1885 there was a twenty years' struggle to restore the early and better order which had existed before the extremes of sectionalism began their baleful and bloody work.

It has been the unhappy fate of the passing generation to witness the fulfillment of Mr. Webster's prophetic vision. States have been "dissevered, discordant, belligerent." Our land has been "rent with civil feuds" and "drenched in fraternal blood." These eloquent words were uttered in 1830. They presaged the controversy upon slavery and its extension. That controversy led to the national disaster which he so much feared.

It is no part of the plan of this work to embrace a full history of that controversy, nor of the subsequent war, and the action of the government. Leaving those events as concluded in the first decade, the second begins with the efforts of President Lincoln to restore the "dissevered" and "discordant" states to their proper Federal relations.

The generous policy of Mr. Lincoln was thwarted at its very inception by the majority in Congress. It was almost slain by the hand of an assassin. Another political phase came before its practicability could be tested. There is a prevalent notion that President Johnson adopted, and proposed to carry out, the policy of his predecessor; but it will be seen that he had a policy of his own, and that the plan of the Republican President was more liberal and comprehensive than that of his Democratic successor.

It is contemplated to give a condensed history of what was done under each of these Presidential policies, both in Washington and in the states;

and of the overthrow of the provisional governments established under them by the military commanders appointed under the Act of March 2, 1867.

This Act was the initial measure of Congressional Reconstruction. It was followed by the Act of March 23, of the same year, which gave particular directions to the military commanders in the Southern States to cause a registration of the voters therein, and to order the election of delegates to conventions which were to frame constitutions for these states.

The essential facts of these important proceedings in each of the reconstructed states are taken from the legislative journals, and are presented to the reader with an account of the partisan struggles, the legislation, and the official corruption which were precursory to the inauguration of universal liberty and equality in the Southern States.

The enforcement of the Reconstruction acts by the military commanders involved the subordination of the civil to the military power. All the more striking incidents of this despotic form of government were thus interpolated into our republican constitutional system. This was done despite of heroic protest, and in the latter half of the nineteenth century!

The establishment of the Freedman's Bureau for the protection, education, and encouragement of the newly emancipated and enfranchised negroes was a part of the work of Reconstruction. The operations of the Bureau have, therefore, received attention.

A history of Reconstruction cannot pass over the outrages perpetrated upon the negroes and many of the whites by the "Ku-Klux Klan" and other unlawful combinations. These organizations sprang up after the enfranchisement of the blacks, and the partial disfranchisement of the whites. Many shocking details are given, with careful statements of the number and character of the criminal acts of the "Klan."

The abuse of power in the Southern States, by governments formed under the leadership of Northern adventurers, has been exposed. Much might be added to this department of the history.

It may be said here that it has not been the purpose of the author, though a life-long adherent to the Democratic party, to set forth any particular theory of the Constitution. He does not seek to uphold or to advance the interests of any section of the country, or faction of the people. He has no ambitions to gratify by the distortion or suspension of the truths of history. His aim is to bring out all the material facts under their several heads, in the order of their occurrence. His criticisms consist only of such inferences as seem to be clearly warranted. Of course, in such a presentation, principles

and policies, modes of political thought, and creeds of interpretation will receive some illustration.

The author is moved to this congenial work because of the erroneous impressions created by a class of literature that is too often partial and malignant. The new generation find great perplexity in comprehending the issues treated in this work—issues that stirred the great Republic to the foundations of its polity and society. The mode adopted for the solution of these issues by military force and civil power should be studied from a non-partisan point of view, in order to reach just conclusions.

For nearly a quarter of a century the writer has been no inactive member of the popular branch of the Federal Legislature. For eight years he represented the capital district of Ohio. Four of these years preceded, and four were during the civil conflict. At the conclusion of this period of service he removed to the city of New-York. There, for a time, he was aloof from old political associations. He devoted himself to new pursuits, and formed new attachments. After a season he was returned as a Federal Representative from the city of New-York. From 1868 to 1885 he passed through the ordeal of a metropolitan member.

During these unexampled periods it has been the fortune of the writer to mingle with public men of every shade of opinion,—men in every variety of public and private employment, and of every quality and grade of character. He has drawn from decrees of state, and even the "columns of the sepulchres," as well as from the controversies of contending parties, the memorabilia for this history.

In this change from West to East—from the capital of the proudest Western state to the great metropolis of the country—the author never had occasion to change his first unwavering trust in his political faith. He never ceased to believe—what now in 1885 is apparent—that the party of constitutional limitations, strict construction, state sovereignty, and Federal unity would be found indispensable in the end to honest and united government. As this strange, eventful period of history is concluding, that party is re-ascending to political prominence, by the inauguration of its recently-elected chief magistrate, purified by the ordeal fires which only added to it invincible strength.

House of Representatives,
Washington, March 4, 1885.

CONTENTS.

CHAPTER I.

DISREGARD OF NATIONALITY.

THE CAPITOL AT WASHINGTON — THE OLD HALLS OF LEGISLATION — THE SENATE OF WORTHIES — DEDICATION OF THE NEW HOUSE — MAIDEN SPEECH THEREIN — THE USE OF AN OPPOSITION PARTY — THE PROXIMATE CAUSES OF THE CIVIL CONFLICT — ANCIENT ROMAN POLICY — EXCESSES NORTH AND SOUTH — FUTILE EFFORTS FOR ADJUSTMENT — THE THEORY OF SECESSION — CONSEQUENCES OF SECESSION — THE WISDOM OF CIVISM, . . PAGES 25–34

CHAPTER II.

PARTY CREEDS AND MODES.

CONSTITUTIONAL CONSTRUCTION — NEW ENGLAND SLAVE TRADE — THE COTTON GIN AND THE MULE-JENNY — COTTON AND SLAVERY — SOUTHERN ANTI-SLAVERY — FIRST FREE SOIL VOTE — SLAVERY IN THE TERRITORIES — THE LOUISIANA AND FLORIDA PURCHASES — THE MISSOURI QUESTION — THE ANNEXATION OF TEXAS — THE KANSAS STRUGGLE — THE WHIG PARTY DISBANDS — RISE OF THE REPUBLICAN PARTY — THE ABOLITIONISTS — JOHN C. CALHOUN, PAGES 35–54

CHAPTER III.

THE THIRTY-FIFTH CONGRESS.

ITS ORDEAL AS TO SLAVERY EXTENSION — KANSAS AND THE TERRITORIAL QUESTIONS — QUADRILATERAL CONTEST FOR THE PRESIDENCY — THE CHARLESTON CONVENTION — THE DOUGLAS MAJORITY — THE TWO-THIRDS RULE — THE SOUTHERN DELEGATES WITHDRAW — MR. LINCOLN ELECTED — THE SPECTRE OF WAR, PAGES 55–61

CHAPTER IV.

THE THIRTY-SIXTH CONGRESS.

ITS CHARACTERISTICS, OPINIONS, AND VOTES — CONGRESSIONAL ACTION LEADING TO DISUNION — THE SENATE LEADERS — EFFORTS TO STAY SECESSION — EXTREMISTS DEFEAT THE COMPROMISE — CRITTENDEN'S LAST APPEAL — JEFFERSON DAVIS NOT ANXIOUS TO SECEDE — THE EXTREMISTS IN THE HOUSE — THE UNION PHALANX — CLEMENT L. VALLANDIGHAM, ... PAGES 62–85

CHAPTER V.

THE IMPENDING CONFLICT.

THE THIRTY-SIXTH CONGRESS — WHAT BECAME OF THE MEMBERS — HOW THEY ACTED IN THE WAR — NORTHERN AND SOUTHERN CONGRESSMEN EMBATTLED — A PARLIAMENT WITHOUT PRECEDENT — WHY THE BATTLE OF BELMONT WAS FOUGHT — A CHAPTER OF WAR, ADVENTURE, AND NECROLOGY — ELY'S "ONWARD TO RICHMOND" — JUDGE REAGAN'S REPULSE OF THE ENEMY — THE SENATORS AND MEMBERS IN THE FIELD — THEY FOUGHT AS THEY VOTED — INAUGURATION OF PRESIDENT LINCOLN — FIRST GUNS OF THE WAR, ... PAGES 86–100

CHAPTER VI.

THE THEORY AND PRACTICE OF SECESSION.

MR. CALHOUN'S EXPOSITION OF THE DOCTRINE — HE FAVORED NULLIFICATION BUT NOT SECESSION — JEFFERSON'S VIEWS — THE KENTUCKY AND VIRGINIA RESOLUTIONS — ALIEN AND SEDITION ACTS — MR. MADISON'S INTERPRETATION — MASSACHUSETTS SHOULDER TO SHOULDER WITH SOUTH CAROLINA ON STATE RESISTANCE — THE PERSONAL LIBERTY BILLS OF THE NORTH — SOUTH CAROLINA LEADING SECESSION MOVEMENTS — ALEXANDER H. STEPHENS' GREAT SPEECH FOR THE UNION — JEFFERSON DAVIS' PROPOSITION — ACTION OF TEXAS — THE SOUTHERN CONFEDERACY IN MONTGOMERY — FEDERAL AND CONFEDERATE CONSTITUTIONS — PROTESTS AGAINST SECESSION — *DE FACTO* IF NOT *DE JURE* GOVERNMENTS IN THE SOUTH — A LINE OF HOSTILITY BETWEEN TWO GREAT COMMUNITIES — THE CRITTENDEN RESOLUTIONS — SECESSION AND SLAVERY SUBORDINATE TO THE LINCOLN POLICY FOR THE UNION — THE ANOMALOUS SECESSION OF WEST VIRGINIA FROM OLD VIRGINIA — VARIOUS THEORIES AS TO THE INSURGENCY — ALL MERGED IN LINCOLN'S POLICY — THE FINALE OF SLAVERY AND OF ITS INCIDENT, SECESSION, ... PAGES 101–125

CHAPTER VII.

FINANCIAL SUPPORT OF THE UNION.

THE MEXICAN WAR FINANCES — THE REVOLUTIONARY WAR FINANCES — STATE AND CONTINENTAL BILLS OF CREDIT — EARLY REVENUE RESOURCES — CUSTOMS, EXCISES AND DIRECT TAXES — THE CIVIL WAR FINANCES — THE CIVIL WAR DEBT — THE ISSUES OF BONDS AND TREASURY NOTES — UNITED STATES NOTES — LEGAL TENDER NOTES — DUTIES ON IMPORTS UNDER THE MORRILL TARIFFS — THE INTERNAL REVENUE SYSTEM — THE PLAN FOR A NATIONAL PAPER CURRENCY — ITS ORIGIN AND CONSTITUTIONALITY — AMERICAN ABILITY TO SUSTAIN TAXATION, ... PAGES 126–144

CHAPTER VIII.

THE LEADING MOVEMENTS OF THE WAR — 1861–1862.

WHAT ARE ACTS OF WAR? — SEIZURE OF FEDERAL FORTS AND PROPERTY — SUMTER AND ITS FATE — DIPLOMACY AND ITS FAILURE — JUDGE CAMPBELL AND MR. SEWARD — THE EXCITEMENT NORTH AND SOUTH — BLOOD SPRINKLING IMPULSES — JERRY CLEMENS AND HIS STORY — PRESIDENT LINCOLN'S PROCLAMATION — EXTRA SESSION, 1861 — PREPARATIONS FOR HOSTILITIES — BLOCKADE — RESPONSE TO CALL FOR TROOPS — BALTIMORE IN A FERMENT — MASSACHUSETTS AROUSED — THE MOUNTAIN UNIONISTS — BORDER STATES SECESSIONISTS — ELLSWORTH'S DEATH — THE ARMY ABOUT WASHINGTON — THE ADVANCE TO RICHMOND — BULL RUN, ITS HUMORS AND TRAGEDIES — BALL'S BLUFF AND ITS DISASTER — MISSOURI CAMPAIGN — LYON'S HEROISM — GENERAL BAKER AND STONE PASHA — THE OUTRAGE UPON THE LATTER — EXPEDITIONS TO SOUTH AND NORTH CAROLINA — THEIR SUCCESSES — BATTLE IN HAMPTON ROADS — THE MARVEL OF HISTORY, . . . PAGES 145–172

CHAPTER IX.

THE PROGRESS OF THE WAR — 1862.

CONQUESTS ON SOUTH CAROLINA AND GEORGIA COASTS — MISSOURI RELIEVED — GENERAL SAMUEL R. CURTIS AT PEA RIDGE — HIS SPLENDID SERVICES AND VICTORIES — BATTLES IN KENTUCKY — FALL OF FORTS HENRY AND DONELSON — FLOYD AS A GENERAL AND A FAILURE — TENNESSEE OPENED — NASHVILLE OCCUPIED, AND ANDREW JOHNSON GOVERNOR — SHILOH AND ITS RESULTS — OPERATIONS IN TENNESSEE — HALLECK SUBORDINATES GRANT — VIRGINIA CAMPAIGN — McCLELLAN IN COMMAND — HIS DIFFICULTIES IN FRONT — EMBARRASSMENTS AT WASHINGTON — CHANGE OF BASE TO THE JAMES RIVER — NORFOLK OCCUPIED — THE AUTHOR'S PERSONAL OBSERVATIONS — HON. JOHN S. MILLSON AT HOME — THE BIG RAM "VIRGINIA" BLOWN UP — FITZ JOHN PORTER'S MOVEMENTS — McCLELLAN, McDOWELL, POPE, BANKS, FREMONT, SUMNER, JOSEPH E. JOHNSTON, LONGSTREET, JACKSON, EWELL, THE HILLS, AND

OTHER GIANTS IN THE FIELD — MANŒUVRES AND DISASTERS — GREAT SLAUGHTER — MALVERN HILL BATTLE — RICHMOND NOT TAKEN — McCLELLAN REMOVED — SECOND BULL RUN — MARCH INTO MARYLAND — WASHINGTON THREATENED — McCLELLAN RECALLED — ANTIETAM — SURRENDER OF HARPER'S FERRY — BATTLE OF CHATTANOOGA — KIRBY SMITH IN KENTUCKY — FRANKFORT TAKEN AND CINCINNATI THREATENED — THE SQUIRREL CAMPAIGN AND A RACE FOR CONGRESS — BRAGG FORAGING IN KENTUCKY — VAN DORN AND CORINTH — ROSECRANS AND BRAGG AT STONE RIVER — GENERAL STUART'S CAVALRY INVADE PENNSYLVANIA — GREAT BATTLE AT FREDERICKSBURG — BURNSIDE DEFEATED — FARRAGUT AND BUTLER ON THE LOWER MISSISSIPPI — NEW ORLEANS CAPTURED, ... PAGES 173–193

CHAPTER X.

THE END OF THE WAR.

VICKSBURG CAMPAIGN OF 1863 — OTHER MOVEMENTS OF GRANT — BANKS AT PORT HUDSON — BURNSIDE SENT WEST — HE ARRESTS VALLANDIGHAM — HIS WONDERFUL STRATEGY IN CAPTURING THE DEMOCRATIC ORATOR — THE TRIAL — THE AUTHOR'S EVIDENCE — HOOKER DEFEATED IN VIRGINIA — LOSS OF STONEWALL JACKSON — POPULAR CLAMOR FOR A MOVEMENT — VINDICTIVENESS OF THE RADICALS AND STANTON — MEADE IN COMMAND — LEE MOVES NORTH — A BOLD DESIGN ON THE CAPITAL AND NORTHERN CITIES — GETTYSBURG A WATERLOO — OTHER BATTLES IN TENNESSEE — ATLANTA FALLS — SHERMAN MARCHING THROUGH GEORGIA — THE CAMPAIGN OF 1864–'65 — THE TENDENCY TO CONCENTRATE ALL FORCE FOR THE GRAND DENOUEMENT — RICHMOND FALLS — APPOMATTOX — RESOURCES AND COST OF THE WAR — THEIR IMMENSITY AND THE COMPENSATION, ... PAGES 194–218

CHAPTER XI.

PERSONAL LIBERTY ABUSED AND VINDICATED.

A WAR FOR THE CONSTITUTIONAL UNION — RADICAL OPPOSITION — PERSECUTIONS BY ANTI-SLAVERY RADICALS — GENERAL GRANT'S LETTER OF 1861 — HIS DOCTRINE OF NON-INTERFERENCE WITH SLAVERY — A WAR OF SUBJUGATION — THE EXTREMES SOUTH AND NORTH — PROCLAMATION OF MARTIAL LAW IN 1861 — ARBITRARY ARRESTS IN 1862 AND AFTERWARDS — HABEAS CORPUS SUSPENDED — OUTRAGEOUS ORDERS OF SECRETARIES STANTON AND SEWARD — ARRESTS — MARSHALS, SPIES, AND COMMISSIONS — STANTON DICTATOR — GRAND EFFORT OF DANIEL W. VOORHEES IN CONGRESS — DARK HOURS FOR THE REPUBLIC — CAPITAL FATTENING ON CONTRACTS AND SPOILS, AND LEAGUED WITH FANATICS — GOVERNOR SEWARD IN HOME AFFAIRS — PERSONAL LIBERTY DISCUSSED — BINNEY'S PAMPHLETS AND THE RESPONSES — THE MILLIGAN CASE

— THE SUPREME COURT AS A BREAKWATER — MILLIGAN SENTENCED TO DEATH — VALLANDIGHAM'S CASE PARALLEL — HIS PROTEST — THE TRUMBULL LAW — GRAND ARRAY OF COUNSEL IN MILLIGAN CASE — LOGIC OF THE DECISION — THE MRS. SURRATT TRAGEDY VIOLATIVE OF THE DECISION — GENERAL BUTLER DENOUNCES IT — MILITARY ARRESTS IN CONGRESS — GALLANT FIGHT OF HENRY WINTER DAVIS FOR PERSONAL LIBERTY — HE SUCCEEDS — LIBERTY DEATHLESS — MAGNA CHARTA — DAVIS ITS CHAMPION — SKETCH OF HIS LIFE AND SERVICES — THE OLIVE-BRANCH NOT OFFERED YET — LESSONS OF HISTORY SPURNED — THE WAR LIKELY TO END WITH PRACTICAL DISUNION — THE SECOND DECADE BEGINS WITH RECONSTRUCTION OF DISMANTLED STATES — HOPE FOR THE PEOPLE — BEAUTY FOR ASHES, ... PAGES 219–240

CHAPTER XII.

PROSCRIPTION OF PERSONS AND PROPERTY.

LEGISLATIVE AND EXECUTIVE MODES — NON-INTERCOURSE — THEORY AND PRACTICE — WAS SECESSION WAR OR NOT — IT WAS A PRACTICAL FACT — DILEMMA AS TO "PIRATES" AND PRISONERS OF WAR — LINCOLN'S SOLUTION — ANOMALOUS RIGORS, NORTH AND SOUTH — HIGHER LAW NEWLY APPLIED — ÆSOP'S SATYR — AFTER THE WAR — FOLLY OF NON-ACTION SOUTH — TWO DECADES OF TROUBLE MIGHT HAVE BEEN AVERTED — RADICAL PROSCRIPTIONS UNCONSTITUTIONAL — RATIFICATION OF AMENDMENTS — CONFISCATION ACTS — ATTAINDER AND *EX POST FACTO* LAWS — BELLIGERENT STATUS VIOLATED — TEST OATHS — LOYALTY — CUMMINGS AND PERMOLI CASES — *IN RE* GARLAND — JUSTICE FIELD'S DECISIONS — FOURTEENTH AMENDMENT — A BILL OF ATTAINDER — ITS MONSTROSITY — FORCE BILL AND ITS FATE — LIBERTY ECLIPSED — TEST OATH REPEALED IN 1884 — RAPINE BY LAW — DEMOCRATIC PROTESTS AGAINST OSTRACISM AND TYRANNY, . . PAGES 241–257

CHAPTER XIII.

FOREIGN RELATIONS DURING THE CIVIL WAR.

GREAT BRITAIN RECOGNIZES THE CONFEDERACY — BELLIGERENT RIGHTS CONCEDED — JUDGE BLACK'S CIRCULAR LETTER — MR. BUCHANAN'S ADMINISTRATION VINDICATING NATIONAL JURISDICTION — MR. SEWARD SPEAKING FOR PRESIDENT LINCOLN'S ADMINISTRATION — APPREHENSIONS — A FEATHER IN THE SCALE — THE SWITZERLAND CASE — EARLY TREATIES WITH EUROPE RECOGNIZING OUR INDEPENDENT AND SOVEREIGN STATES — THE SPANISH AMERICAN STATES — FREEDOM OF THE SEAS — MEDIÆVAL RULES OF MARITIME LAW — PIRACY — CONTRABAND OF WAR — TREATIES AS TO CONTRABAND — THE MARCY PROPOSITIONS — THE PARIS CONFERENCE OF 1856 AND ITS DECLARATION — THE UNITED STATES AMENDMENT OF THE DECLARATION — THE AUTHOR'S RESOLUTIONS AND SPEECH — THE DEMOCRACY OF THE SEA — EARL RUSSELL'S

PROPOSITION — MR. SEWARD'S DILEMMA AND RESPONSE — THE CONFEDERATE RIGHTS AS BELLIGERENTS — CANADA REBELLION IN 1838 — OUR BLOCKADE MUST BE RESPECTED — OUR NAVAL ARMAMENT — MR. SEWARD AS A STATESMAN, ... PAGES 258–274

CHAPTER XIV.

THE TRENT AFFAIR.

THE CONFEDERATE COMMISSIONERS — THEIR AUTHORITY AND INSTRUCTIONS — THEIR ARRIVAL IN HAVANA — INTRODUCTION TO THE CAPTAIN-GENERAL — CAPTAIN WILKES DECIDES TO ARREST THEM — THE TRENT BROUGHT TO — RESISTANCE TALKED OF — BRITISH INDIGNATION AND THREATS — CAPTAIN WILKES RELEASES THE TRENT — HIS MISTAKE — THE PRISONERS AT FORT WARREN — THE QUESTION IN CONGRESS — MR. VALLANDIGHAM'S PREDICTION — MR. COX'S REPLY — EARL RUSSELL'S NOTE — MR. SEWARD'S REPLY — THE ARREST JUSTIFIED — BELLIGERENT RIGHTS, AND DUTIES OF NEUTRALS — A DIPLOMATIC DUEL — EARL RUSSELL DISARMED — NO APOLOGY — A DINNER PARTY — THE RELEASE OF THE PRISONERS — AN AMERICAN VICTORY, ... PAGES 275–293

CHAPTER XV.

THE CONFEDERATE AND OTHER GOVERNORS.

ISHAM G. HARRIS, OF TENNESSEE — HEADING THE LIST OF FIVE EXECUTIVES — HIS OFFICIAL TRUSTS — HIS CONGRESSIONAL SERVICE — GOVERNOR FROM 1857 TO 1865 — HIS ENERGY AND ABILITY — HIS EXILE, RETURN, AND PREFERMENT — SERVICE AND POSITION IN THE SENATE — JOHN LETCHER, OF VIRGINIA — HIS EARLY LIFE — HIS SERVICE IN VIRGINIA AND IN CONGRESS — WATCH-DOG OF THE TREASURY — HIS ACTION AS GOVERNOR DURING THE CIVIL WAR, AND HIS DEATH — SAM : HOUSTON — HIS ECCENTRIC LIFE AND HIS COURAGEOUS CONDUCT — THE BATTLES OF TEXAS INDEPENDENCE — HIS SERVICE TO ANNEXATION — GOVERNOR AND SENATOR — HIS HESITATION AS TO SECESSION — JOSEPH E. BROWN, OF GEORGIA — GEORGIA'S RESOURCES — HER WISDOM AT THE END OF THE WAR — HER FOREMOST GOVERNOR — HIS BUSINESS ENERGY DURING THE WAR AND AT ITS END — HIS CONTESTS WITH THE CONFEDERATE GOVERNMENT — GOVERNOR VANCE'S LETTER TO HIM — CONSCRIPTION DEFIED — HIS CHARACTER — HIS CHARITIES — HIS PRESENT SERVICE — ZEBULON B. VANCE, OF NORTH CAROLINA — BORN AMONG THE MOUNTAINS — REPRESENTATIVE OF BUNCOMBE — HIS LOVE OF BOOKS — THE BASIS OF HIS EDUCATION — HIS UNCLE'S LIBRARY — HIS EXPERIENCES IN CONGRESS AND IN WAR — HIS EXECUTIVE ABILITY AND INTEGRITY, . PAGES 294–308

CHAPTER XVI.

PROPOSITIONS FOR PEACE, AND THE AMENDMENT ABOLISHING SLAVERY.

THE CONFEDERACY AT THE END OF 1864 — GLOOM AT RICHMOND — THE CALL FOR THREE HUNDRED THOUSAND MEN BY PRESIDENT LINCOLN — THE ATTEMPTS OF MR. STUART, OF ILLINOIS, AND THE AUTHOR TO MAKE PEACE — THE ANTI-SLAVERY ZEALOTS DISFAVOR ALL PEACE PROPOSITIONS — LINCOLN AND SEWARD MAKE OVERTURES OF PEACE — ATTEMPT TO CARRY THE THIRTEENTH AMENDMENT BY TWO-THIRDS VOTE — THE CONFEDERATE DILEMMA — COLONIAL VASSALAGE, OR SUBJUGATION — SHALL THE SOUTH GO TO ENGLAND AND FRANCE? — WANING POPULARITY OF JEFFERSON DAVIS — EVENTS WHICH LED TO THE COLLAPSE OF THE CONFEDERACY — SHERMAN'S MARCH TO THE SEA — THE TAKING OF SAVANNAH AND FORT FISHER — PEACE PROPOSITIONS NORTH AND SOUTH DURING THE WAR — RESOLUTIONS AND SENTIMENTS AGAINST PEACE — THE GROWTH OF THE PEACE SENTIMENT FROM 1861 TO 1865 — PEACE BY COMMISSIONERS, AND BY DELEGATES TO A NATIONAL CONVENTION — THE NIAGARA CORRESPONDENCE BETWEEN SANDERS AND GREELEY — ITS FAILURE — LINCOLN'S AUTHORITY FOR THE ATTEMPT — VISITS OF FRANCIS P. BLAIR, SR., TO RICHMOND — THE RESULT — THE MONROE DOCTRINE, AND CONFEDERATE EMIGRATION TO MEXICO — THE DEBATE ON THE AMENDMENT ABOLISHING SLAVERY — THE POWER TO AMEND CONTESTED — THE AUTHOR'S SPEECH IN FAVOR OF THE RIGHT TO ABOLISH, IN REPLY TO PENDLETON — THE PASSAGE OF THE AMENDMENT — BRIBERY ALLEGED — ITS RATIFICATION — MR. SEWARD'S COMMENDATION OF THE DEMOCRATS WHO FAVORED THE AMENDMENT — HAMPTON ROADS CONFERENCE — LINCOLN AND SEWARD THERE — RESULTLESSNESS OF THE MEETING — DEBATES AND RESOLUTIONS ABOUT IT — WHAT IT ATTEMPTED — CONCLUSION OF THE WAR, ... PAGES 309–336

CHAPTER XVII.

PRESIDENT LINCOLN'S POLICY OF RECONSTRUCTION.

THE AMNESTY PROCLAMATION — THE OATH OF ALLEGIANCE — THE CONDITIONS OF PARDON — THE EXCEPTED CLASSES — RECONSTRUCTION BILL IN THE HOUSE — MILITARY PROVISIONAL GOVERNORS — THE QUALIFICATION OF VOTERS — ELECTION OF MEMBERS OF CONGRESS — SENATE AMENDMENTS REJECTED — THE BILL PASSES CONGRESS — IT FAILS TO BE SIGNED BY THE PRESIDENT — ITS POLICY ADOPTED BY HIM — CRITICISMS OF HIS PARTY — MR. LINCOLN'S MODERATE VIEWS — NEGRO SUFFRAGE PROPOSED — EXTREME MEASURES DEVELOPING — AUTHOR'S ESTIMATE OF LINCOLN, PAGES 337–345

CHAPTER XVIII.

PRESIDENT JOHNSON'S POLICY OF RECONSTRUCTION.

WHEREIN IT DIFFERED FROM MR. LINCOLN'S — THE END OF THE BLOCKADE — ALL THE PORTS OPEN — REVENUE AND POSTAL LAWS IN FORCE — THE CIVIL PROVISIONAL GOVERNORS — THE MILITARY AID THEM — THE MILITARY NOT TO OBSTRUCT THE VOTERS — LOYALTY AND WHITE SUFFRAGE THE RULE — INTENSE RADICAL DISSATISFACTION — SENATOR HOWE'S PECULIAR VIEWS OF STATE RIGHTS — A STATE AS A MANUFACTURED PRODUCT! — "IF THE STATES ARE ADMITTED" — THE RADICAL ARGUMENT *AB INCONVENIENTI* — REMARKS OF THE AUTHOR — THE COMPATIBILITY OF STATE AND FEDERAL RIGHTS — INDESTRUCTIBLE STATES AND UNION, PAGES 346–353

CHAPTER XIX.

THE DOCTRINE OF STATE VITALITY.

A TEST OF POSITIONS IN DEBATE — SENATOR JOHNSON TRIUMPHANTLY ANSWERS SENATOR HOWE — THE SENATOR IN THE ARENA WITH THE LOGICAL RAPIER — THE SOCRATIC METHOD OF JOHNSON — HOWE'S COOL PARRIES AND JOHNSON'S KEENER THRUSTS — THE SCENE IN THE SENATE COMPARED WITH THE WARREN HASTINGS TRIAL — THE IMMORTALITY OF THE STATES — SECESSION ORDINANCES VOID — NOT WAR, BUT INSURRECTION — THE FEELING SOUTH — WAS PROBATION NECESSARY? — NORTHERN APPREHENSIONS — WAR RESULTS SAFE — NEGRO ENFRANCHISEMENT — THE BALLOT INEVITABLE — PARTISANSHIP PILLORIED — THE CONSTITUTION AS THE PALLADIUM OF THE NORTH AND SOUTH, . PAGES 354–364

CHAPTER XX.

STATE RECONSTRUCTION IN THE HOUSE OF REPRESENTATIVES.

DIALECTICS AND SOPHISTRIES OF THE RADICALS — THADDEUS STEVENS AS A LEADER — A MAN OF IRON — HIS TALISMANIC POWER — THE VICTORS' SPOILS — PERPETUATION OF REPUBLICAN RULE — THE DEAD STATES — THE CONSTITUTION IGNORED — THE LAW OF NATIONS FOR THE SOUTH — BELLIGERENT RULES IN PEACE — PRIZE LAW FOR THE STATES — UNION ON CONDITION OF NEGRO SUFFRAGE — THE RADICAL FALLACIES — THE FEDERAL GANGLION — THE DOCTRINE OF CONQUEST — CONFISCATION AND CONFEDERATE DEBTS — INDESTRUCTIBILITY OF THE STATES — CONSTITUTIONAL RECONSTRUCTION, ... PAGES 365–374

CHAPTER XXI.

ATTEMPTS AT STATE REORGANIZATION IN THE SOUTH.

STATUS OF THE COLORED PEOPLE — DEMANDS FOR THEIR ENFRANCHISEMENT — THE FIRST RECONSTRUCTION ACT — PRESIDENT JOHNSON'S VETO — THE ATTORNEY-GENERAL'S OPINION — MARTIAL LAW TO

GOVERN THE SOUTH — DISFRANCHISEMENT OF THE INTELLIGENT — PRESIDENT JOHNSON'S POLICY — ITS OPERATION — REORGANIZATION IN TENNESSEE — WILLIAM G. BROWNLOW ELECTED GOVERNOR — SECESSION ORDINANCES ANNULLED — CONFEDERATE ACTS AND OBLIGATIONS MADE VOID — CONSTITUTIONAL AMENDMENTS — DISUNIONISTS DISFRANCHISED — SLAVERY ABOLISHED — CIVIL RIGHTS GRANTED TO COLORED PEOPLE — THEY ARE NOT TO VOTE, HOLD OFFICE, OR SIT ON JURIES — CONGRESS APPROVES OF THIS COURSE — TENNESSEE ADMITTED TO FEDERAL RELATIONS, JULY 24, 1866 — UNION SENTIMENT IN NORTH CAROLINA — PRESIDENT JOHNSON'S ATTEMPT TO REHABILITATE THAT STATE — GOVERNOR VANCE'S ADVICE — PROVISIONAL GOVERNOR HOLDEN APPOINTED — HEARTY REPEAL OF THE SECESSION ORDINANCE — CONVENTION AND LEGISLATIVE WORK — IT DOES NOT SATISFY CONGRESS — NORTH CAROLINA TO REMAIN A CONQUERED PROVINCE, PAGES 375–388

CHAPTER XXII.

TEMPORARY REORGANIZATION OF THE SOUTHERN STATES.

MISSISSIPPI AND HER GOVERNORS — JUDGE SHARKEY — PRESIDENT JOHNSON'S TERSE ORDER — LEGISLATION IN DETAIL — GEORGIA RECONSTRUCTED — HER TERRIBLE CONDITION IN 1865 — ACTION OF HER PEOPLE — TEXAS RECONSTRUCTED — GOVERNOR HAMILTON AND HIS PROCLAMATIONS — ALABAMA — VANDALISM THERE — GOVERNOR PARSONS' DESCRIPTION OF IT — HIS SERVICES — ALABAMA CONVENTION — QUARREL OVER THE EPISCOPAL PRAYERS — MEDDLESOME MILITARY ORDER — SOUTH CAROLINA — BRECKENRIDGE ON THE SOUTH CAROLINA CHIVALRY — GOVERNORS MAGRATH, PERRY, AND ORR — OBSTACLES OVERCOME, ... PAGES 389–416

CHAPTER XXIII.

TEMPORARY REORGANIZATION OF THE SOUTHERN STATES.— CONTINUED.

FLORIDA DEPENDENT ON OTHER STATES — HER CONFEDERATE GOVERNOR, JOHN MILTON — HIS SUCCESSOR, GOVERNOR WALKER — FLORIDA ADOPTS THE THIRTEENTH AMENDMENT — LEGISLATION AS TO NEGROES, FIRE ARMS, MARRIAGE, CONTRACTS, AND VAGRANCY — VIRGINIA ATTEMPTS TO RECONSTRUCT — GENERAL BUTLER'S ACTION — GENERAL WEITZEL AND PRESIDENT LINCOLN AT RICHMOND — PRESIDENT JOHNSON'S ORDER — PIERPONT'S GOVERNMENT — ATTEMPTED REPEAL OF WEST VIRGINIA SECESSION — CONGRESS INDIFFERENT — INDORSEMENT OF JOHNSON'S POLICY — LOUISIANA — GENERAL BUTLER AND THE COLORED PEOPLE — HIS VERSATILE AND VALUABLE QUALITIES — ATTEMPTS TO ORGANIZE COURTS — REGISTRY, VOTERS, AND GOVERNMENT — GENERAL BANKS AND HIS EFFORTS — GOVERNOR HAHN AND HIS PELICANS — GOVERNOR WARMOTH AND HIS RADICALS — ONE-TENTH VOTING POLICY — PRESIDENT JOHNSON INTERVENES — BLOODY RIOTS OF 1864 — WARMOTH GOVERNOR — NEW CONSTITUTION IN 1868 — WAR-

MOTH'S LETTER — ITS STATEMENTS DENIED — OTHER RIOTS UNTIL 1868 — LOUISIANA RECLAIMED — CONFISCATION AND RASCALITY — WINTER DAVIS' BILL — ARKANSAS — HER EARLY MOVEMENTS — RADICALS IN CHARGE — LEGISLATIVE CRUDITIES — CONVENTION OF 1866 — LABOR QUESTIONS — SOLDIERS AND CIVILIANS BOTH TYRANNICAL — THE POLAND COMMITTEE — GARLAND SAVES THE STATE — SKETCH OF GOVERNOR, SENATOR, AND ATTORNEY-GENERAL GARLAND, ... PAGES 417–441

CHAPTER XXIV.

THE FREEDMEN'S BUREAU.

ACT CREATING IT — ITS PURPOSES AND SCOPE — SUPPLEMENTARY ACT — PRESIDENT JOHNSON'S VETO OVERRULED — HIS OBJECTIONS TO THE PROPOSED LAW — LARGE APPROPRIATIONS FOR THE BUREAU — THE COMMISSIONER AND HIS SUBORDINATES — CHARGES PREFERRED AGAINST THE COMMISSIONER IN THE HOUSE OF REPRESENTATIVES BY FERNANDO WOOD OF NEW-YORK — INVESTIGATION BY A COMMITTEE OF THE HOUSE — MAJORITY AND MINORITY REPORTS — ERECTION OF THE HOWARD UNIVERSITY — THE BARRY FARM — DISASTROUS ATTEMPT TO ESTABLISH A COLORED COLONY ON IT — FAILURE OF THE FREEDMEN'S BANK — DISASTROUS CLOSE TO THE WHOLE SCHEME, ... PAGES 442–450

CHAPTER XXV.

KU-KLUX OUTRAGES.

RESISTANCE TO RECONSTRUCTION MEASURES — INTIMIDATION AND TERRORISM IN THE SOUTH — PREVALENCE OF LAWLESSNESS — SECRET SOCIETIES — THE KU-KLUX KLAN — VIRGINIA AN EXCEPTION — GENERAL FORREST'S TESTIMONY — STRENGTH OF THE KU-KLUX ORGANIZATION — ITS MODE OF OPERATIONS — HISTORY OF OUTRAGES IN NORTH CAROLINA — THE KIRK-BERGEN REBELLION — DISREGARD OF WRITS OF HABEAS CORPUS — IMPEACHMENT OF GOVERNOR HOLDEN — PARTISAN AND INCOMPETENT JUDGES — INCENDIARY ADDRESS OF REPUBLICAN MEMBERS OF THE LEGISLATURE — CAUSES OF THE LAWLESSNESS, ... PAGES 451–463

CHAPTER XXVI.

KU-KLUX OUTRAGES.— CONTINUED.

SOUTH CAROLINA — FRAUD AND VIOLENCE IN ELECTIONS — TWO CONTESTED ELECTION CASES — GEORGIA — GENERAL SWAYNE'S REPORT — GENERAL GORDON'S VIEWS — NO EXCUSE FOR KU-KLUX ORGANIZATIONS OR RAIDS — ALABAMA — ASSASSINATION OF ALEXANDER BOYD — INTIMIDATION OF STUDENTS — THE METHODIST CHURCH SOUTH — OUTRAGES UPON PREACHERS — MISSISSIPPI — HOSTILITY TO FREE SCHOOLS — OUTRAGES ON SCHOOL TEACHERS — THE MERIDIAN RIOT — WHIPPING OF HUGGINS AND McBRIDE —

THE KU-KLUX START IN TENNESSEE — THEIR RAPID SPREAD IN OTHER SOUTHERN STATES — BAD GOVERNMENT CAUSES SECRET ASSOCIATIONS — HENCE, THE ILLUMINÉS — THE TUGEND-BUND — THE CARBONARI — THE JACOBIN CLUBS — THE NIHILISTS — THE FENIANS — THE LOYAL LEAGUES — AND THE KU-KLUX KLANS — THE AUTHOR'S SPEECH AGAINST THE FORCE BILL, . PAGES 464–479

CHAPTER XXVII.

RECONSTRUCTION IN THE FIRST MILITARY DISTRICT.

FIVE MILITARY DISTRICTS IN THE SOUTH — VIRGINIA THE FIRST DISTRICT — PROVISIONS OF THE LEGISLATION — CALL ON THE PRESIDENT FOR INFORMATION — HIS REPLY — MILITARY COMMANDERS — GENERAL SCHOFIELD FOR VIRGINIA — HIS GENERAL ORDERS — SUB-DISTRICT COMMANDERS — DIVISION OF THE REPUBLICAN PARTY INTO MODERATES AND RADICALS — INDICTMENT OF HUNNICUTT FOR INCENDIARY LANGUAGE — THE BILL OF RIGHTS — THE VOTE ON THE NEW CONSTITUTION — GENERAL STONEMAN IN COMMAND OF DISTRICT — GENERAL CANBY SUCCEEDS HIM — REMOVALS FROM CIVIL OFFICE — ELECTION OF GOVERNOR WALKER — VIRGINIA RECONSTRUCTED — FINANCIAL STATEMENTS, PAGES 480–493

CHAPTER XXVIII.

RECONSTRUCTION IN THE SECOND MILITARY DISTRICT.

NORTH AND SOUTH CAROLINA — GENERAL SICKLES ASSIGNED TO COMMAND — THE PRINCIPLES OF THE RECONSTRUCTION ACTS APPLIED — REMOVALS OF LOCAL OFFICERS — OBJECTIONS FROM THE PRESIDENT — STATE "STAY LAWS" ENFORCED BY GENERAL SICKLES — THE UNITED STATES MARSHAL OF NORTH CAROLINA DISREGARDS THE "STAY LAW" — HE IS SUSTAINED BY THE PRESIDENT — GENERAL SICKLES RESIGNS THE COMMAND — GENERAL CANBY SUCCEEDS HIM — HE APPROVES OF SICKLES' COURSE — THE REGISTRATION OF VOTERS IN THE TWO STATES — THE WHITE AND COLORED VOTES — THE CONVENTIONS — THE NEW CONSTITUTIONS — THE LEGISLATURES AND THE LEGISLATION — THE STATE OFFICERS — THE METHODS OF THE "CARPET-BAGGERS" AND THEIR NATIVE ASSOCIATES — NOT MAKING BRICKS WITHOUT STRAW — THE ISSUE OF FRAUDULENT BONDS — THE TAXATION AND THE DEBTS — THE PLUNDERERS DISPERSED — A JUSTIFIABLE REVOLUTION — CONGRESSIONAL CONDITIONS OF REHABILITATION — THEIR ACCEPTANCE — THE LONG PROBATION — 1865 TO 1877, ... PAGES 494–507

CHAPTER XXIX.

RECONSTRUCTION IN THE THIRD MILITARY DISTRICT.

GENERAL POPE IN COMMAND — REGISTRATION AND CONVENTION IN GEORGIA — CONFLICT BETWEEN GOVERNOR JENKINS AND GENERAL POPE — RATIFICATION OF THE CONSTITUTION — GOVERNOR BUL-

LOCK INAUGURATED — COLORED MEMBERS EXPELLED FROM THE LEGISLATURE — MILITARY INVESTIGATION — THE EXPELLED RE-ADMITTED — THE AMENDMENTS RATIFIED — FINANCIAL CONDITION — FLIGHT OF BULLOCK — THE ELECTION LAW OF 1870 — ALABAMA — REMOVAL OF MUNICIPAL OFFICERS — REGISTRATION — MOB IN MOBILE — THE CONVENTION — THE PROPOSED CONSTITUTION OBNOXIOUS — FAILURE OF RATIFICATION BY THE PEOPLE — STATE ADMITTED NOTWITHSTANDING — THE LEGISLATURE — STATE INDEBTEDNESS — FLORIDA — REGISTRATION — CONSTITUTIONAL CONVENTION — DIVISION OF THE REPUBLICANS INTO TWO FACTIONS — UNITY RESTORED, AND A CONSTITUTION VOTED — A MILITARY OFFICER ACTS AS TEMPORARY CHAIRMAN OF THE CONVENTION — CHARACTER OF THE CONSTITUTION — ELECTION OF GOVERNOR REED — CHARGES OF FRAUD IN THE ELECTION — ADMISSION OF THE STATE INTO THE UNION — THE LEGISLATURE — PROPOSED IMPEACHMENT OF GOVERNOR REED — JUDICIAL PROCEEDINGS — THE IMPEACHMENT ABANDONED — NEW IMPEACHMENT PROPOSED — BRIBERY, CORRUPTION, AND FRAUD CHARGED AGAINST THE GOVERNOR — VOTE AGAINST IMPEACHMENT — ACTS OF USURPATION — LEGISLATIVE LEGERDEMAIN — REPUBLICAN CANDIDATE "COUNTED IN" — THE OSBORN RING — A THIRD ATTEMPT AT IMPEACHMENT ALSO FAILS — THE DEMOCRATS REGAIN CONTROL OF THE STATE — FINANCIAL CONDITION, . . PAGES 508–524

CHAPTER XXX.

RECONSTRUCTION IN THE FOURTH MILITARY DISTRICT.

MISSISSIPPI — REGISTRATION — THE DEMOCRATS ALLOW THE ELECTION FOR CONVENTION TO GO BY DEFAULT — APPREHENSIONS OF A NEGRO OUTBREAK — COURT-MARTIALING OF A NEWSPAPER EDITOR — THE CONSTITUTIONAL CONVENTION — LIBERAL COMPENSATION TO DELEGATES AND OFFICERS — GENERAL AMES APPOINTED PROVISIONAL GOVERNOR, AND GOVERNOR HUMPHREYS OUSTED AT THE POINT OF THE BAYONET — THE CONSTITUTION DEFEATED — EX-SENATOR BROWN'S EXPLANATION OF THE VOTE — MODERATION IN POLITICS — OBNOXIOUS FEATURES OF THE CONSTITUTION ELIMINATED — THE CONSTITUTION RATIFIED — CORRESPONDENCE BETWEEN PRESIDENT GRANT AND JUDGE DENT — THE FALL ELECTION OF 1869 — JAMES L. ALCORN CHOSEN GOVERNOR — HE DECLINES THE "PROVISIONAL" APPOINTMENT — ELECTIONS TO THE UNITED STATES SENATE — A COLORED SENATOR — ADMISSION OF MISSISSIPPI TO THE UNION — MEETING OF THE LEGISLATURE — GOVERNOR ALCORN'S INAUGURAL — A MURDER CASE — THE NEW CONSTITUTION — THE ELECTIONS OF 1871 — CENSUS AND TAXATION — DEMOCRATIC VICTORY IN 1875 — ARKANSAS — HIGH-HANDED MILITARY INTERFERENCE WITH STATE OFFICIALS — THE CONSTITUTIONAL CONVENTION — ELECTION FRAUDS — CHARGES OF FRAUD ON ONE SIDE, AND OF INTIMIDATION ON THE OTHER — MILITARY RULE TERMINATED AND THE STATE RESTORED TO THE UNION — FUNDING THE PUBLIC DEBT — THE HOLFORD BONDS — HOSTILITY BETWEEN GOVERNOR CLAYTON AND LIEUT.-GOV. JOHNSON — THE

FALL ELECTION OF 1872 — MORE WHOLESALE FRAUDS — THE BAXTER-BROOKS CONFLICT — ADOPTION OF THE CONSTITUTION OF 1874 — THE PARTIES AND THEIR LEADERS EXCHANGING POSITIONS — PRESIDENT GRANT CHANGES WITH THEM — REPORT OF THE POLAND INVESTIGATING COMMITTEE — STATE FINANCES,

PAGES 525–542

CHAPTER XXXI.

RECONSTRUCTION IN THE FIFTH MILITARY DISTRICT.

LOUISIANA — GENERAL SHERIDAN'S REMOVAL OF STATE OFFICIALS — HIS QUARREL WITH, AND REMOVAL OF, GOVERNOR WELLS — THE PRESIDENT'S ORDER AS TO REGISTRATION DISREGARDED—RESULTS OF REGISTRATION — FORTY THOUSAND WHITES EXCLUDED FROM SUFFRAGE — REMOVAL AND APPOINTMENT OF NEW ORLEANS ALDERMEN AND OTHER OFFICERS — GENERAL SHERIDAN SUCCEEDED BY GENERAL HANCOCK — HIS SPECIAL ORDER ON ASSUMING COMMAND — RE-INSTATEMENT OF STATE OFFICIALS — MEETING OF THE STATE CONVENTION — THE NEW CONSTITUTION RATIFIED BY THE PEOPLE — GENERAL HANCOCK'S REMOVAL OF OFFICIALS NOT SUSTAINED BY GENERAL GRANT — GENERAL HANCOCK RELIEVED AT HIS OWN REQUEST — THE DISFRANCHISING CLAUSE OF THE CONSTITUTION — THE PRESIDENTIAL ELECTION IN NOVEMBER, 1868 — IMMENSE DEMOCRATIC MAJORITIES — EXPLANATION OF THE FACTS — THE NEGROES TERRORIZED AND LARGE NUMBERS OF THEM KILLED — THE LEGISLATURE OF 1869 — GOVERNOR WARMOTH'S MESSAGE — MEASURES OF SOCIAL EQUALITY AND OF PUBLIC PLUNDER — LOW OPINION OF THE MEMBERS — LOBBYING AND BRIBING BY THE "BEST PEOPLE" — THE STATE AUDITOR IMPEACHED — THE ELECTION OF NOVEMBER, 1870 — THE REPUBLICANS TRIUMPHANT — REPEAL OF THE DISFRANCHISING CLAUSE — QUARREL BETWEEN THE REPUBLICAN FACTIONS — MOVEMENTS AND COUNTER-MOVEMENTS — CHARACTER OF GOVERNOR WARMOTH — HIS EXPOSURE OF LEGISLATIVE PROFLIGACY — MUTUAL CHARGES OF KNAVERY BETWEEN THE REPUBLICAN LEADERS — HOW THEY ALL ENRICHED THEMSELVES — THE FALL ELECTION OF 1872 — TWO RETURNING BOARDS DECIDING THE RESULTS DIFFERENTLY — RIVAL LEGISLATURES — WARMOTH IMPEACHED — PINCHBACK ASSUMES THE EXECUTIVE OFFICE, AND IS SUSTAINED BY PRESIDENT GRANT — THE PACKARD LEGISLATURE, AND ITS METHODS — THE McENERY LEGISLATURE ORGANIZED AND SUSTAINED — TWO GOVERNORS — KELLOGG AND McENERY INAUGURATED — SENATE COMMITTEE OF INQUIRY — McENERY SUSTAINED BY THE PEOPLE — ARREST OF THE McENERY LEGISLATURE — MILITARY RECOGNITION OF THE KELLOGG GOVERNMENT — McENERY GIVES UP THE FIGHT — SANGUINARY CONFLICTS IN THE PARISHES — THE COUSHATTA MASSACRE — UPRISING IN NEW ORLEANS AGAINST THE KELLOGG GOVERNMENT — PROCLAMATION BY THE PRESIDENT — KELLOGG'S GOVERNMENT RE-ESTABLISHED BY THE MILITARY — COMPROMISE EFFECTED BY A HOUSE COMMITTEE — FINANCIAL STATEMENT — TEXAS — GENERAL SHERIDAN'S REPORT OF THE BAD CONDITION OF AFFAIRS — GENERAL GRIFFIN'S ORDER — REMOVAL OF THE GOVERNOR AND

OTHER STATE OFFICIALS — GENERAL SHERIDAN'S REPORT — HIS REFLECTIONS ON PRESIDENT JOHNSON — THE CONSTITUTIONAL CONVENTION — STATISTICS OF CRIME — THE CONSTITUTIONS OF 1868 AND 1876 — GENERAL REYNOLDS CO-OPERATING WITH THE RADICALS — FINANCIAL STATEMENT, ... PAGES 543–577

CHAPTER XXXII.

IMPEACHMENT OF ANDREW JOHNSON.

SPRING OF 1865 — SURRENDER AT APPOMATTOX — SECOND INAUGURATION OF PRESIDENT LINCOLN — SCENE IN FORD'S THEATRE — THE ASSASSINATION — JOHNSON'S ACCESSION — PRELIMINARIES TO IMPEACHMENT — GROUNDS FOR THE IMPEACHMENT — MAJORITY REPORT OF JUDICIARY COMMITTEE — PRETEXTS FOR IMPEACHMENT — DISMISSAL OF STANTON — ALLEGED CONSPIRACY BETWEEN GEN. LORENZO THOMAS AND THE PRESIDENT — IS "SWINGING ROUND THE CIRCLE" A MISDEMEANOR? — THE SENATE AS A COURT — INSTANCES OF IMPEACHMENT — SPLENDID ARRAY OF COUNSEL — ATTORNEY-GENERAL STANBERY — THE EXCITEMENT AND VOTE — MINOR HISTORY OF THE TRIAL — DOUBTFUL SENATORS — MR. WARDEN'S RECITAL — SENATOR GRIMES AND PRESIDENT JOHNSON — MEET WITH REVERDY JOHNSON — SENATOR HENDERSON'S DOUBTFUL VOTE — THE AUTHOR'S PART — DAY BREAKS FOR THE PRESIDENT, ... PAGES 578–594

CHAPTER XXXIII.

AMNESTY.

THE VICISSITUDES OF THIS QUESTION — CARRIED ONCE IN THE HOUSE — COLORED VOTES FOR IT — GENERAL BUTLER'S BILL OF GRACE WITHOUT GRACE, AND PUNITORY PARDON — MILITARY REPRESSION AND CIVIL OPPRESSION — RANCOR CHERISHED — HOPES OF RECONCILIATION MOCKED — SPURIOUS SPIRIT OF AMNESTY — MR. GREELEY'S NOMINATION — ITS CAUSES — MR. LINCOLN'S PURPOSE OF MERCY — MR. BLAINE'S ACTION — THE PAGAN POLICIES OF REPUBLICANS — EXECUTIVE PARDONS AND THE AMNESTY OF THE CONSTITUTIONAL AMENDMENT, ... PAGES 595–601

CHAPTER XXXIV.

TEST OATHS AND PENALTIES.

THEIR OPERATION IN THE ONE-TENTH RECONSTRUCTION PLAN OF HENRY WINTER DAVIS — UNFAIRNESS TO UNIONISTS — TEST OATHS DESTRUCTIVE OF TRIAL BY JURY — EFFORTS AT TEST OATH REPEAL — MODIFICATION PROPOSED BY THE REPUBLICANS — THE AUTHOR'S BILLS — POLITICAL OATHS IN FRANCE AND ENGLAND — THE PURITAN ATTITUDE — NOTABLE CHANGE IN ENGLISH SENTIMENT AND LAW — THE OBLIGATION OF AN OATH — OATH-TAKING

AND OATH-BREAKING — THE MISSOURI IRON-CLAD — MISSOURI PERSECUTION OF SISTERS OF CHARITY — THE TEST OATH IN THE SUPREME COURT — THE GARLAND CASE — SENATOR GARLAND'S NOBLE STAND FOR THE REPEAL OF THE TEST OATHS, . PAGES 602–616

CHAPTER XXXV.

POLITICAL CAMPAIGNS AND ISSUES UP TO 1876.

THE CONTEST OF 1864 — McCLELLAN AND LINCOLN — MILITARY AND CIVIC VIRTUES IN ISSUE — ARM-IN-ARM CONVENTION — 1868 AND ITS ISSUES; — GOVERNOR SEYMOUR — HIS SPEECHES AND CONDUCT — THE PATRIOTISM OF THE DEMOCRACY — INCREASE OF OUR AREA AND POWER UNDER DEMOCRATIC ADMINISTRATION — THE NUMBER OF DEMOCRATIC VOTERS AND SOLDIERS — SEYMOUR DEFEATED — JUDGE BLACK ON THE CARPET-BAGGER — HORACE GREELEY TRIED, AS A BRIDGE FOR HONESTY AND AMNESTY — GREELEY'S DEFEAT ON AN INCREASED VOTE — OTHER QUESTIONS OF FEDERAL LEGISLATION — CIVIL RIGHTS — ECONOMIES — CURRENCY — BAYONETS AT THE POLLS — ABRAM S. HEWITT'S SPLENDID CHAMPIONSHIP OF FREEDOM *VERSUS* FORCE — ENGLISH STATUTES AND LAW ON THE SUFFRAGE — ABOLITION OF MILITARY INTERFERENCE WITH ELECTIONS, ... PAGES 617–635

CHAPTER XXXVI.

THE FAMOUS ELECTORAL COMMISSION.

THE FORTY-FOURTH CONGRESS ASSEMBLES — THE GATHERING STORM — DIVISION OF PARTIES — OPINIONS ON THE MODE OF COUNTING THE ELECTORAL VOTE — PERPLEXITY OF THE PROBLEMS — COMMITTEES RAISED UNDER KNOTT'S RESOLUTION — HOW THEY WERE CONSTITUTED — THE SECRETS OF THE COMMITTEES NOW FIRST DIVULGED — THEIR DEBATES AND THE RESULTS — SEPARATE AND JOINT ACTION — CHANCES BY DRAWING CUTS — THE SUPREME JUSTICES CALLED IN — THE SHREWD DEVICES OF THE REPUBLICANS — HOW THE SECRETS WERE KEPT — VARIOUS DRAFTS OF BILLS — RUMORS OF WAR — PREPARATIONS FOR THE USE OF FEDERAL TROOPS — FINAL REPORT TO CONGRESS AFTER THE SECRET DISCUSSIONS, ... PAGES 636–650

CHAPTER XXXVII.

THE ELECTORAL COUNT OF 1877.

EVENTFUL DAYS OF HISTORY — MEETING OF THE HOUSES TO COUNT THE VOTE — FLORIDA IS REACHED — EXCITEMENT — RECESS — ELECTORAL COMMISSION MEETS — THE OLD SENATE ROOM — THE COMMISSION ORGANIZED — THE ATTORNEYS — THE JUDGMENT ON FLORIDA — JUDGE BRADLEY — HIS *NON-SEQUITUR* — *ALIUNDE* — ERMINE TAINTED — REPUBLICAN TRIUMPH — DEMOCRATIC DESPONDENCY — THE COUNT RESUMED — SOUTH CAROLINA — LOUIS-

IANA — THE AUTHOR'S SPEECH — SPEECHES OF OTHER MEMBERS — SCATHING INVECTIVES OF JUDGE BLACK AND JOSEPH S. C. BLACKBURN — OREGON, WISCONSIN, AND VERMONT VOTES — THE CONCLUSION — THE STARS AND STRIPES LOWERED — *DE FACTO* AND *DE JURE*, ... PAGES 651–668

CHAPTER XXXVIII.

PRESIDENT HAYES' ADMINISTRATION AND ITS RESULTS.

MR. HAYES' QUALITIES — HIS FORMER POPULARITY — QUESTIONS DURING HIS ADMINISTRATION — SILVER AND GOLD — RESUMPTION OF SPECIE PAYMENTS — RESUMPTION OF CONSTITUTIONAL STATE GOVERNMENT IN THE SOUTH — REPEAL OF THE BANKRUPTCY ACT — PARTY PLATFORMS — GENERAL GRANT — GENERAL HANCOCK, AS SOLDIER AND CIVILIAN — GARFIELD SUCCEEDS HAYES — HIS CAREER — HIS INAUGURATION — HIS LEADER IN THE CABINET, BLAINE — THE ASSASSINATION OF PRESIDENT GARFIELD — ARTHUR'S SUCCESSION — THE NOTABLE EVENT OF HIS ADMINISTRATION — PENDLETON'S CIVIL SERVICE REFORM BILL, . PAGES 669–676

CHAPTER XXXIX.

THE INAUGURATION OF DEMOCRACY AND CLEVELAND.

THE PROVINCE OF HISTORY — WHAT THE SOUTH HAS DONE TO RECUPERATE — BLACK AND WHITE — NEW ORLEANS EXPOSITION — THE PLATFORM OF 1884 — GOVERNOR CLEVELAND ITS EXPONENT — A CATO — INAUGURATIONS OF 1801, AND 1885 — THE NEW ORDER, BORN OF THE GREAT CONFLICT — THE FALSEHOOD OF EXTREMES, AND THE PERMANENCY OF MODERATION, ... PAGES 677–684

CHAPTER XL.

MATERIAL PROGRESS IN THREE DECADES.

RESULTS OF CENSUSES — OBJECT OF CENSUS FROM 1790 — THE LEGISLATION FOR THE TENTH CENSUS, OF 1880 — ITS COMPLETENESS — STAR OF EMPIRE AND CENTRE OF POPULATION IN 1880 — SOCIAL STATISTICS — CENTENNIAL YEAR — OUR INCREASE FROM DECADE TO DECADE — DETAILS OF ADVANCEMENT — FEDERAL TRADE AND TARIFF RESTRICTIONS — HINDRANCES TO PHYSICAL GROWTH — ODDITIES OF THE CENSUS — THE PUBLIC LANDS — PRIMARY OBJECT OF THE CENSUS — THE APPORTIONMENT OF REPRESENTATION — RESULT OF THE APPORTIONMENT — INCREASE OF THE SOUTH IN POLITICAL POWER — POPULATION, AND NOT VOTES, THE BASIS — OUR UNIQUE SYSTEM — THE MUNIMENTS OF PUBLIC LIBERTY FOUNDED ON THE CENSUS OF POPULATION — OUR LIGHT OF LIBERTY, ... PAGES 685–699

MAP OF THE UNITED STATES, ... 700

INDEX, ... 701

List of Illustrations.

Engraved Title,

With Portrait of the Author.

Representative Statesmen.

Ante-Bellum.

ABRAHAM LINCOLN, STEPHEN A. DOUGLAS,
JOHN J. CRITTENDEN, JEREMIAH S. BLACK,
CLEMENT L. VALLANDIGHAM.

Page 25.

Confederate Governors.

ISHAM G. HARRIS, JOHN LETCHER,
SAMUEL HOUSTON, JOSEPH E. BROWN,
ZEBULON B. VANCE.

Page 120.

Military Governors.

GEN. DANIEL E. SICKLES, GEN. E. O. C. ORD,
GEN. WINFIELD S. HANCOCK, GEN. GEO. H. THOMAS,
GEN. GEORGE STONEMAN.

Page 232.

Reconstruction Governors.

WILLIAM L. SHARKEY, WILLIAM G. BROWNLOW,
GEORGE S. HOUSTON, AUGUSTUS H. GARLAND,
WILLIAM W. HOLDEN.

PAGE 344.

Reconstruction Statesmen.

THOMAS A. HENDRICKS, BENJAMIN H. HILL,
ANDREW JOHNSON, ALLEN G. THURMAN,
JAMES A. GARFIELD.

PAGE 456.

Diplomats and Statesmen.

WILLIAM H. SEWARD, JOHN SLIDELL,
CAPT. CHARLES WILKES, ALEXANDER H. STEPHENS,
SALMON P. CHASE.

PAGE 552.

Diplomats and Statesmen.

THOMAS F. BAYARD, L. Q. C. LAMAR,
THADDEUS STEVENS, JAMES G. BLAINE,
GROVER CLEVELAND.

PAGE 664.

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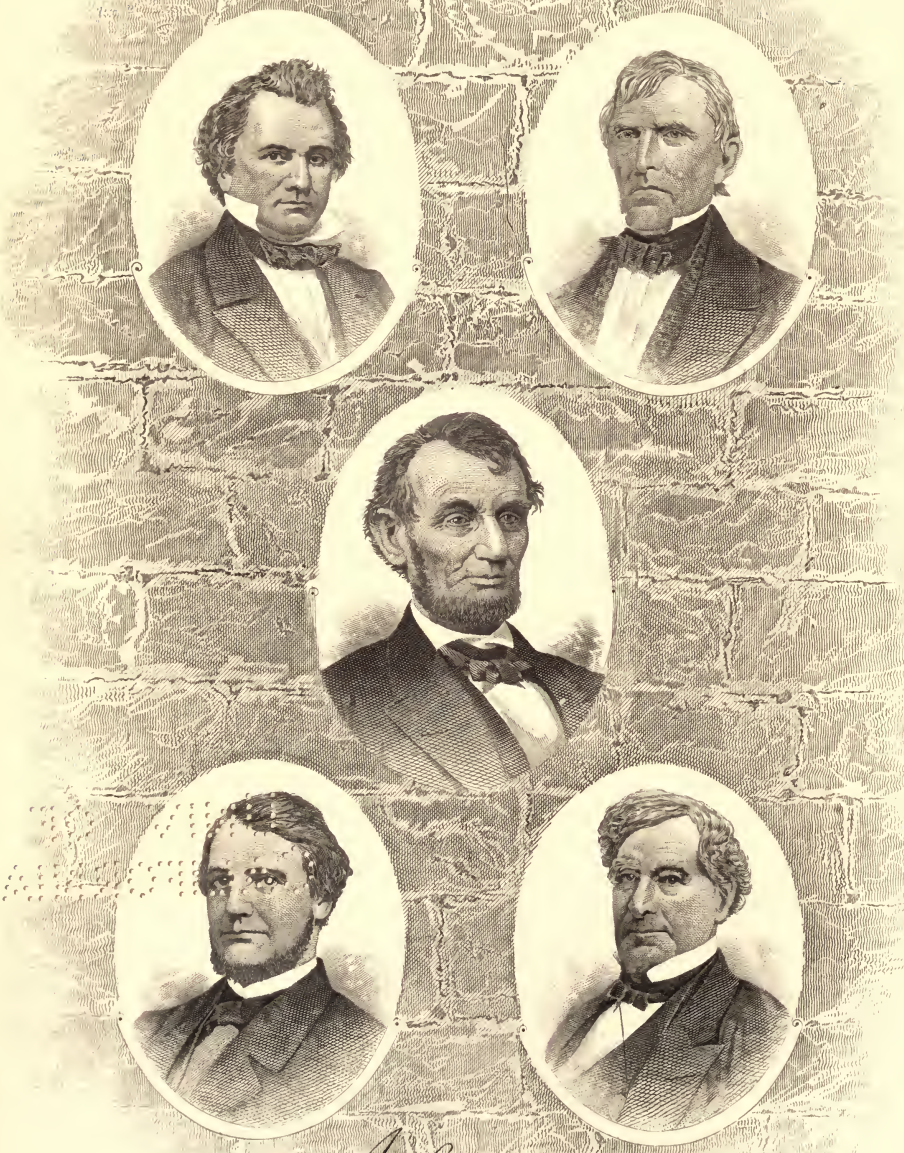

A. Lincoln

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J. S. Black

REPRESENTATIVE STATESMEN ANTE-BELLUM.

CHAPTER I.

THE CAPITOL AT WASHINGTON — THE OLD HALLS OF LEGISLATION — THE SENATE OF WORTHIES — DEDICATION OF THE NEW HOUSE — MAIDEN SPEECH THEREIN — THE USE OF AN OPPOSITION PARTY — THE PROXIMATE CAUSES OF THE CIVIL CONFLICT — ANCIENT ROMAN POLICY — EXCESSES NORTH AND SOUTH — FUTILE EFFORTS FOR ADJUSTMENT — THE THEORY OF SECESSION — CONSEQUENCES OF SECESSION — THE WISDOM OF CIVISM.

THE Capitol of the United States is not only superb as an edifice, but, next to St. Peter's in Rome, the most elaborate and elegant structure in the world. Between it and the palace of the Spanish Cortez, the *Palace d'Elysée* of the *Corps Legislatif*, in Paris, the German *Reichstag-gebäude*, and other edifices in Europe dedicated to parliamentary meetings, no comparison can be made. As between it and the Westminster Palace, where the English Parliament sits, there are few points of comparison. Their different orders of architecture furnish simply points of contrast. Westminster Palace is Gothic-Tudor. The United States Capitol is Greek of the Corinthian order. The former is built of brown limestone, the latter of pure white marble. A great feature of the Palace is its tower clock. The Capitol has a lofty iron dome. One registers the time of passing dynasties; the other is typical of the enduring majesty of the people. The Palace stands on the bank of the Thames — flat and subject to overflow. The Capitol has an Acropolis for its situation. It has not the height nor the surroundings of that rocky eminence which gave to Athens its crowning glory; but it is so set upon a hill that, with its dome capped by the Goddess of Liberty, it makes a grand beacon of attraction for all the country round.

It is an event in any one's life to enter this Capitol and examine its excellencies of decoration. It excites one's interest to enter the old Senate and House chambers. The former is now used by the Supreme Court, and the latter is a statuary-gallery where the civic and martial heroes of the states are apotheosized. It is more exciting, however, to enter the legislative halls when the representatives of states and people are in convocation and debate.

Notwithstanding a quarter of a century has passed since the writer first entered the Capitol to take a part in the making of laws, the fascination and exaltation in sympathy with the young member never fails to be aroused again, when he looks down from the gallery upon the representatives of so many diverse interests and so many millions of people.

It was the fortune of the author to be a member when the lower House of Congress sat in the old hall. The associations of a thousand debates gave voice to its arches and pillars. Every stone and tablet echoed the elder and, as it was said, the better day of oratory and patriotism. In 1864 each state of the Union was invited by Congress to erect in this hall the statues of two of its most illustrious civic or martial heroes. Rhode Island was the first to respond to the invitation. She sent, in 1871, two life-size marble statues; — one of Major-Gen. Nathaniel Greene, in the Continental uniform, the other of Roger Williams. The latter is the artist's ideal of her civic hero, and not an effigy of the man. Connecticut followed, in 1872, with heroic statues, in marble, of Jonathan Trumbull, the original "Brother Jonathan," and Roger Sherman. New-York gave, in 1873, life-size statues, in bronze, of Gen. George Clinton, a Democrat *par excellence*, and Robert R. Livingston, in his chancellor's robes. In 1876, Massachusetts gave semi-heroic statues, in marble, of John Winthrop, her first governor, and Samuel Adams. Winthrop is represented as landing with the charter of 1630, and Adams as making his famous protest. Vermont gave, the same year, a marble heroic statue of Ethan Allen, in the Continental uniform, representing that fiery soldier when demanding the surrender of Ticonderoga "in the name of the Great Jehovah and the Continental Congress." Her civic effigy, contributed in 1880, represents — in marble, semi-heroic — Jacob Collamer as addressing the Senate on Constitutional law. Maine set up, the same year, a semi-heroic statue, in marble, of her first governor, William King. The other states will soon fill the vacant niches; and here, while this Union shall endure, will stand the mute but eloquent Senate of American Worthies. Passing through this shrine to the present halls of legislation, what Senator or Representative can fail to breathe in some inspiration of the devotion to Liberty and Justice that is here commemorated!

This historic hall, whose vaulted roof still whispers the eloquence of the past, has long been silent to the lofty flights of forensic discussion and debate for which the days of Clay, and Webster, and Calhoun were famous. It was abandoned twenty-eight years ago by the House of Representatives for the more commodious chamber now occupied by that body.—The 16th of December, 1857, is memorable in the annals of Congress. Looking back to that day, the writer can see the members of the House of Representatives take up the line of march out of the old shadowy and murmurous chamber, into the new hall with its ornate and gilded interior. The scene is intense in a rare dramatic quality. Above shine in vari-colored

light, the escutcheons of thirty states; around sit the members upon richly-carved oaken chairs. Already arrayed upon either side are the sections in mutual animosity. The Republicans take the left of the Speaker, the Democrats the right. James C. Orr, of South Carolina, a full roseate-faced gentleman of large build and ringing metallic voice, is in the chair. James C. Allen, of Illinois, sits below him in the clerk's seat. The Rev. Mr. Carothers offers an appropriate and inspiring prayer. He asks the Divine favor upon those in authority; and then, with trembling tones, he implores that the hall just dedicated as the place wherein the political and constitutional rights of our countrymen shall ever be maintained and defended, may be a temple of honor and glory to this land.—"May the deliberations therein make our nation the praise of the whole earth, for Christ's sake." A solemn hush succeeds this invocation. The routine of journal reading; a reference of the Agricultural College bill, upon the request of the then member, now Senator, from Vermont, Justin S. Morrill; and the presentation of a communication regarding the chaplaincy from the clergy of Washington, are followed by the drawing of seats for the members, who retire to the open space in the hall. A page with bandaged eyes makes the award, and one by one the members are seated. Then, by the courtesy of the chairman of the Printing Committee, Mr. Smith, of Tennessee, a young member from Ohio is allowed to take the floor. He addresses the Speaker with timidity and modesty, amid many interruptions by Humphrey Marshall, of Kentucky, Mr. Bocock, of Virginia, Judge Hughes, of Indiana, George W. Jones, of Tennessee, and General Quitman, of Mississippi, each of whom bristles with points of order against the points of the orator. But that young member is soon observed by a quiet House. Many listen to him — perhaps to judge of the acoustic property of the hall, some because of the nature of the debate; and then, after a few minutes, all become excited! Again and again the shrill and high tones of Mr. Speaker Orr are heard above the uproar. He exclaims: "This is a motion to print *extra* copies of the President's message. Debate on the subject of the message is, therefore, in order — upon which the gentleman from Ohio has the floor!" That gentleman is now the writer. His theme was the Lecompton Constitution. As the questions discussed involved the great issues leading to war or peace, his interest in the *mise en scène* became less; but his maiden speech — the maiden speech in the new chamber — began under influences anything but composing.

This preliminary etching of the Capitol is intended only to limn the circumstances as they affected the young and ambitious legislator; or, as a prologue to the stirring scenes which greeted his first appearance in the *rôle* of orator under such grave conditions.

The times were then sadly out of joint. The author had a keen anticipation of the consequences of sectionalism. His first debate intensified this

anticipation. He had warned and worked, from his first entrance into public life, against the passionate zealotry of both sections. He denounced as equally perilous the policy and theory of secession, and the provocations and conduct of the other extreme. He voted to avert the impending struggle by every measure of adjustment. He was secretary of the Border states convention of congressmen which sought to avoid trouble and reconcile the sections. Along with such men as Stephen A. Douglas, Thomas Corwin, Charles Francis Adams, John J. Crittenden, and the giants of those days, he was content to be an humble advocate of every proposition tending to allay the excitement growing out of the fugitive slave law, the extension of slavery into the territories, and kindred questions. When the war came, he aided the Administration by his votes for money and men to maintain the Federal authority.

The author believed then, as he believes now, that in all representative governments a constitutional opposition is one of the safeguards of liberty; and that it is a legislator's duty to challenge freely the conduct of the Administration in regard to the use of the means committed to it by the people. Because the time of war is the time of danger, it does not follow that criticism by the opposition at such a period may not be consistent with patriotism. England was saved from disgrace in the Crimean war by a defiant opposition, which was led by the London *Times*. A government may be magnified by opposing the weakness of its administration. It may be saved and strengthened by a vigorous criticism upon an imbecile party or corrupt policy; otherwise the very function of government might be palsied by the incapacity or corruption of the functionary. And should we be less heedful how we undignify the office by an undue contempt of the officer, than how we unduly dignify the officer at the expense of the office? It is a wise saying that "the best men are not always the best in regard to society."

In all free countries an opposition is an element of the government. It is as indispensable to the safety of the realm as a free press or a free pulpit. To dispense with it is to endanger, if not to dispense with, liberty. The valiant arm of the soldier owes much of its strength to those who, regardless of the frowns of power or the allurements of patronage, maintain a steadfast front against the corruption, insolence, and tyranny which are always incident to war. A distinguished Southern statesman, James Guthrie, of Kentucky, said to the writer in 1865: "The Revolution has left deep scars on the Constitution of the United States, and of the states. But as they were made on the road to restoration and peace, we begin the race of progress with renewed confidence in freedom and justice." The apology for many a political and social scar must be left to the evils and necessities of the time when the cicatrice was formed. But can this justify a representative of the people in remaining an indifferent spectator while the wounds are being inflicted? When war can be justified, does the freebooter or guerrilla escape demerit

because he plies his vocation under the pretense of its hostilities? The duty of a patriot before a war, and *a fortiori* during its continuance, is to proclaim every attendant peril to freedom. In a war like ours for the sustentation of a Federal Union, it was a duty to announce and denounce every effort in aid of disunion, whether it came from foe or friend.

What to superficial observers appears to be unpatriotic opposition, is not seldom patriotic antagonism to arbitrariness in the proceedings with which war is accompanied. Such an opposition is dictated by regard for the very object for which the war is prosecuted. The clangor of arms is said to silence the law. This aphorism may be true of monarchical rule, but it ought to have no application in republican governments. It is one of the merits of the Democratic party, that while broken in pieces and stifled in expression, its members never failed to lift their voice for personal and public liberty, above the alarms of war.

How often was the star of Liberty eclipsed during the progress of our Civil War! Not merely by the suspension of the *habeas corpus* in places where war was not flagrant; not merely by wrongful arrests and imprisonment of citizens who were innocent; not merely by silencing the Constitution in various ways, and restrictions on civil rights; but by a thousand small modes in the procedure of legislative bodies, the movements of cabinets, the deposition of chiefs, and even in the disposition of armies.

It is our humiliation that a period of more than twenty years has elapsed since the cessation of hostilities, and yet freedom is not fully restored to every citizen, nor full rehabilitation given to those who acquiesced in the government. Even the "test oaths," that odium of history, were not fully repealed until the first session of the last Congress. Then, the author's bill, which had been pending for many years, became a law. This partial amnesty came in the form of a repeal of the test law. It was that law which absurdly compelled the Representative, who was innocent of rebellion, to take an oath that he was not engaged in the Rebellion; while the Representative who was so engaged simply took the oath to support the Constitution.

During the late war, while others were skeptical in respect of the use of men and means for coercion; while statesmen like Judge Douglas were prepared to welcome temporary disunion, or its relative, a Customs-Zolverein or economic fraternity of states, the writer believed that the proper use of means and men would ultimately bring peace with union. But he also held that no peace would be permanent unless it were wedded to the Union in contentment. For this reason he made several efforts to bring together eminent men of both sections who had the confidence of the people, with a view to stop the shedding of blood and to foster reconciliation. In these attempts he maintained no uncertain attitude in regard to the Union. His conduct was not seldom challenged; but in 1862, in a gerrymandered district

of Ohio, with five thousand adverse majority, and on questions connected with peace and union, he was re-elected to Congress in spite of threats and violence. After the war had ended and new associations gave him a pause for calm reflection, all his passions and interests became subordinated to a clear mental vision. Whatever of acrimony may have remained from the heat of discussion gave place to charity. He had time to observe the aftermath of the conflict, and to garner the second crop of trials which resulted from the prostration and upbuilding of the devastated states.

The main part of these memorabilia has to do with the reconstruction of the discordant elements in the Southern States subsequent to the war. There could be no reconstruction of the states themselves, for the states were indestructible. They had the celestial ichor of the Immortals, and could not, except by annihilation, die. In that part of this work the author discusses the military powers and the civil functions of the Federal Government. His pen follows the Ku-Klux into his lodge, and the freedman into his bureau. It lifts the veil from President Lincoln's plan for a peace administration, and President Johnson's vetoes. It opens to observation the clumsy, vindictive, and relentless doctrines and practices of partisan reconstruction.

The author believes with Montesquieu, that in devising measures for the elevation of down-trodden peoples and states after civil conflict, it is advisable to exceed in lenity rather than severity; to banish but few rather than many; and to leave the defeated their estates instead of making a vast number of confiscations; for, as the French publicist said: "Under the pretense of avenging the Republic's cause, the avengers would establish tyranny." The author ever held that the Federal duty was not to "destroy the rebel but the rebellion; that the disposition should be to return as quickly as possible into the usual track of government in which every one is protected by the laws and no one injured." Accepting this wise doctrine, he would make it the touchstone of the Johnsonian policy, of the Thaddeus Stevens theory drawn from Vattel, and of the reconstructions attempted by provisional governors in the temporary municipal organizations of various Southern states. While not depreciating the difficulties of reconstruction, there is reason now to believe that many years of bitter strife might have been avoided, had there been less toleration or encouragement given to spoliation by adventurers in the South, less obnoxious military intrusion under the Federal Government, and a more liberal operation given to this doctrine of amnesty and reconciliation. It was by military tyranny, by social ostracism, by civil arrogance, by all the machinery known to cunning and vengeful spirits, that the representation of the South in Congress was hindered and delayed, and the inducements to orderly government under new conditions of suffrage were postponed. These modes of reconstruction can now be discussed without prejudice to justice or truth.

Twenty years have passed away since the conclusion of the stupendous

war-struggle in our country. Effigies of the soldiers of that war are reared all over our land. They adorn the avenues of the Federal Capital. Every year, with the coming of the flowers of spring arises the grateful fragrance of American hearts toward those who fell in battle for and against our Federal system and social order. The popular heart, North and South, has for two decades dwelt proudly upon the deeds of the war. But it is no new thought, it is a saying as old as Roman civilization, that the trophies of war do not survive forever. Charles Sumner recognized the eloquence and philosophy of that legend when he appealed to the Senate to erase from our battle-flags the names of fratricidal battle-fields. It is an old adage which came from the same seat of authority and wisdom — ancient Rome — that amid civil tumults the state should build a bridge of gold for the return of its insurgent enemy. This adage proceeds from the self-evident truth that there is nothing so disastrous to society as belligerent dissensions in the state. Yet how prone is mankind to glorify the soldier, to elevate the defender of its hearths and liberties above the champion of liberty in the forum. Is it true that all the solid elements of courage and virtue glitter in the crown of martial success? If this be true, then the Napoleons would outshine the Washingtons; the Cæsars would create events rather than events create the Cæsars. While not depreciating the services of such great captains of our war as Grant, Sherman, McClellan, Sheridan, Meade, Hooker, Thomas, McPherson, Farragut, Dupont, or Porter, it must be remembered that there are other names which shine in our country's annals, upon the martial roll of the Confederate armies. These names are yet upon every Southern lip: Lee, Albert Sidney Johnston, Joseph E. Johnston, Jackson, Hood, Longstreet, Gordon, and many others. But there is still another historic roll, upon which the names of statesmen are found who lifted their stricken communities out of the ashes of defeat and despair. Wade Hampton in South Carolina, George S. Houston in Alabama, Augustus H. Garland in Arkansas, Andrew Johnson in Tennessee, William L. Sharkey in Mississippi, are types of the men who gave their states a new growth and a blessed fruitage. To such men honors more enduring than blood-stained laurels must be awarded.

The author of this volume recognized the Roman lesson when, on the sixth day of January, 1861, as a member from Ohio, he denounced secession and pleaded for compromise. He then warned both North and South of the consequences of war. He made an appeal for nationality while predicting the social chaos which would follow in the wake of conflict. At that time four states only had seceded from the Federal Union. The rest were threatening to follow. It was in such a peril that the heart spontaneously prayed for nearer communication with the Divine prescience. Prosperity had made us proud, rich, intolerant, and self-sufficient. We were, therefore, prone to be rebellious. We were doing well — tempestuously well. Our population was increasing at a wonderful rate. The exchanges of the world were being drawn upon

our great metropolis. We were then called upon to break down and thrust aside the very means of our ascent, the Constitution itself! We were called upon to do this by zealots of the North and of the South. Time has passed since then. The exasperations of public sentiment are almost forgotten. But neither at that time, nor since, could the author speak of the South in the tone and temper of many of that day. Even that irascible and froward state, South Carolina, had been a part of our national life. Her blood was in our veins; her Marion, Sumpter, and Pinckney were ours; so were Eutaw, Cowpens, and Camden. These names and fields of fame could not be separated from the Union any more than the dawn from the sun. If reason should fail, Georgia, Texas, and Louisiana would assuredly follow the erratic course of South Carolina. The waves of the Gulf were making accordant music in the revolutionary anthem; and as the dashings of their surges were but the echoes of the excesses of the North, there was cause to fear the worst in the work of disintegration. Yet many were loath to believe that war would come. They trusted in a certain inventive faculty which had never failed us either in mechanical or political expedients. They thought our politics were plastic to every emergency. The writer discussed at that time several peace propositions, the leading one of which was to impress upon the Southern people the idea that secession, in theory or practice, was inconsistent with good government; that it would be a standing pretext for revolution. Every effort of conciliation should, therefore, be exhausted to check it before resorting to force. He held that the North should do her part fully in recession from unconstitutional aggression, so as to unite the Northern people with the conservative portion of the Southern people in repressing secession. He held that if the South should make a patient endeavor, equal to the great occasion, to secure her rights in the Union, she would succeed; but if she went on inconsiderately the country would have to incur the fearful hazard of war. He believed that if the South should press the one hard, overmastering question upon the North, and follow it with a seizure of forts and revenue, by cannonading our vessels, and other aggressive acts, without giving an opportunity for conciliation, there would be no power in the conservatism of the North to restrain the people,—and no sacrifice would be considered too great an offering for the defense of the Union. The consequences of a dissolution were not then exaggerated. In vain might come the solace that it was not like the breaking up of society; in vain, the hope that it was not anarchy —that the link might fall from the chain and still be perfect, though the chain had lost its link and its strength. The experiment revealed the fallacy of such solaces and hopes. The prophecy of the author as to the impending evils at that time—at the beginning of the year 1861—was more than fulfilled. He then said:

"In the uniformity of commercial regulations, in matters of war and peace, postal arrangements, foreign relations, coinage, copyrights, tariff, and

other Federal and national affairs, this great government may be broken; but in most of the essential liberties and rights which government is the agent to establish and protect, the seceding state has no revolution, and the remaining states can have none. This arises from that refinement of our polity which makes the states the basis of our instituted order. Greece was broken by the Persian power; but her municipal institutions remained. Hungary has lost her national crown; but her home institutions remain. But were these curtailments of nationality voluntary? South Carolina may preserve her constituted domestic authority; but she must be content to glimmer obscurely remote, rather than shine and revolve in a constellated band. She even goes out by the ordinance of a so-called sovereign convention, content to lose, by her isolation, that youthful, vehement, exultant, progressive life, which is our NATIONALITY! She foregoes the hopes, the boasts, the flags, the music, all the emotions, all the traits, and all the energies, which, when combined in our United States, have won our victories in war and our miracles of national advancement. Her Governor, Colonel Pickens, in his inaugural, regretfully 'looks back upon the inheritance South Carolina had in the common glories and triumphant power of this wonderful Confederacy,' and he fails 'to find language to express the feelings of the human heart' as he turns from the contemplation. The ties of brotherhood, interests, lineage, and history are all to be severed. No longer are we to salute a South Carolinian with the *eadem sententia de republica* which makes unity and nationality. What a *prestige* and glory are here dimmed and lost in the contaminated reason of man!

"Can we realize it? Is it a masquerade, to last for a night, or a reality to be managed with rough, passionate handling? It is sad and bad enough; but let us not overtax our anxieties about it as yet. It is not the sanguinary regimen of the French revolution; not the rule of assignats and guillotine; not the cry of '*Vivent les Rouges! A mort les gendarmes!*' but as yet, I hope I may say, the peaceful attempt to withdraw from the burdens and benefits of the Republic. Thus it is unlike every other revolution. Still it is revolution. It may, according as it is managed, involve consequences more terrific than any revolution since government began.

"I would, therefore, guard against the least recognition of this right of secession, or of nullification, which is the lesser type of the same disease. It would, I say, destroy all government. It would dissolve the united mass of powers now deposited in the Union into thirty-three separate and conflicting states; each with a flag, a tariff, an army, a foreign policy, a diversity of interests, and an idiosyncrasy of ideas. Nay, that would be tolerable; but it would do more and worse. It would disintegrate states, counties, towns; tear cities from their places on the map; disorder finances, taxes, revenue, tariffs; and convert this fabric, now so fair and firm that it seems built on the earth's base, and pillared with the firmament, into a play-house

of cards, built on a base of stubble. It would thus destroy the established order. And is such order nothing among men having views of permanency? The North has rights, property, interests, relations in the South, not to be sundered without loss; and the South in the North, *vice versa*. Is this nothing? Is depreciation of property, depression of business, loss and lack of employment, withdrawal of capital, derangement of currency, increase of taxes, miscarriage of public works and enterprise, destruction of state credit, the loss of that national symmetry, geography, strength, name, honor, unity and glory, which publicists tell us are themselves the creators and guardians of cash, credit, and commerce — are these consequences nothing? Surely such a mass of complicated interests — the growth of years, clinging, with root and fibre, to the eternal rocks of public stability — cannot be uptorn without great struggle and stupendous crime.

"I wish that I could contemplate secession as a peaceful remedy. But I cannot. It must be a forcible disruption. The government is framed so compactly in all its parts, that to tear away one part, you must tear the whole fabric asunder. It cannot be done by consent. There is no authority to give consent. The Constitution looks to no catastrophe of the kind. It is a voluntary, violent, and *ex parte* proceeding. A majority of the states, and a great majority of the people, are hostile to it. In this angry and warlike disruption of the compact, where shall we find our 'more perfect Union,' the establishment of justice, domestic tranquillity, provision for the common defense, the promotion of the general welfare, and the security of the blessings of liberty to ourselves and posterity?"

To avert such a terrible catastrophe, which has its only analogy in the agitations of our earth when shaken by the hand of God, almost any use of power would seem to be defensible. But the wisdom of civism teaches that in dealing with a delicate public sentiment, educated upon certain lines of thought for many years, great strength should not be rudely exercised. If the iron hand be necessary it should be gloved in velvet. Firmness should be allied with kindness. Power should assert its own prerogative, but in the name of law and love. Had these elements of reconciliation inspired the amendments to the Constitution and been blended in the policies of reconstruction after the war, as President Lincoln proposed and Andrew Johnson endeavored, our government would not so long have been the prey to those who honeycombed its prosperity and demoralized its administration. And there would not have been the same great necessity for the popular uprising in 1876, which gave to the Democracy its suffrage — a suffrage expressly given to that party in behalf of reform and principle, although the power to execute the trust was diverted and ravished from it by fraud and force. Nor would there have been the same controlling necessity for the contest of ten millions of men at the ballot-box in the year 1884, in order to vindicate popular sovereignty as illustrated in the refined system of polity by which fifty-five millions of people are held together in common nationality.

CHAPTER II.

PARTY CREEDS AND MODES — CONSTITUTIONAL CONSTRUCTION — NEW ENGLAND SLAVE TRADE — THE COTTON GIN AND THE MULE-JENNY — COTTON AND SLAVERY — SOUTHERN ANTI-SLAVERY — FIRST FREE SOIL VOTE — SLAVERY IN THE TERRITORIES — THE LOUISIANA AND FLORIDA PURCHASES — THE MISSOURI QUESTION — THE ANNEXATION OF TEXAS — THE KANSAS STRUGGLE — THE WHIG PARTY DISBANDS — RISE OF THE REPUBLICAN PARTY — THE ABOLITIONISTS — JOHN C. CALHOUN.

THE distinguishing feature between the great political parties of this country is their different modes of construing the Constitution of the United States. A loose construction of law tends to loose government. Loose government leads to loose morals. On the other hand, strict construction is a constant security against excessive, tyrannical, and dishonest policies and conduct. So nearly are these parties divided, that at the recent vote for the electoral ticket, amounting in the aggregate to 10,036,057 votes, 4,842,292 were given for one party, and 4,810,219 for the other. The votes given outside of these two parties, including scattering and defective votes, did not amount to 400,000,— or, to be more exact, 385,808.

If one should fix the dividing line between our people in the matter of politics, it must be drawn between the Democratic party and the Republican party. The issues upon which these parties divide in the most conspicuous manner turn upon the hinges of constitutional construction. The latter party construes the Constitution upon latitudinarian theories, by lax methods. It finds its highest sanction for these theories in the Preamble of that instrument, which says:

"WE, THE PEOPLE of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America"; and a further sanction in that part of Article I., Section 8, Clause 1, which says that: "The Congress shall have Power To . . . provide for the common Defense and general Wel-

fare of the United States." The Democratic party regards these general words as being limited by the expressly enumerated grants of power to Congress, which point out the modes by which the object of the Constitution shall be secured. It holds, for example, that the "common Defense and general Welfare of the United States" are best secured by confining Congress to the exercise of the powers expressly granted; and that there is no discretion to enlarge these powers. It holds that the implied powers of Congress can be drawn alone from the express powers, and not from the general words of the Preamble. Some of the latter — those last above quoted — are found in the first clause of the eighth section of the Constitution. Any other mode of construction must leave Congress at liberty to enact any law at its discretion, on a plausible pretext for promoting the welfare of the people. The journals of Congress in the past three decades are full of the records of attempts at such latitudinarian legislation. These attempts, the Democratic party has invariably opposed. It has opposed them as being unconstitutional. They are subversive of the structure and genius of our government. It holds that the tendency of such legislation is to divest the people of the power over their own domestic affairs. Such power all free people should retain in their own hands.

To show to the unprejudiced reader of the Constitution the evil results of loose construction, it is only necessary to remind him that in the year 1860 the Republican party held that justice was overthrown and domestic tranquillity destroyed by the existence of slavery; that slavery was a perpetual menace to the general welfare; and that the strife in regard to slavery had its origin in the action of an aristocratic governing class founded upon that institution. This was the view of its best writer upon the "war powers" of the government — the Hon. William Whiting, of Boston. There is no doubt that early in the century slavery became irreconcilable, if not with republican institutions, at least with the sentiment of the North. There is no doubt that its championship during the late war became the chief obstacle to the restoration of Federal relations. But whether slave-holding communities were a privileged class or not, depended not upon the Preamble but upon the extent of the granted powers of the Constitution. If the extent of these powers depended upon a construction of the Preamble in its wide significance, or upon the principles of the Declaration of Independence and the rights of man, there would be no doubt that the abolitionists of the North had not only constitutional vindication but immense moral emphasis on their side.

There is no one so hot in his temper or so extreme in his Southern proclivities as now to defend the institution of slavery or yearn for its re-establishment. The progress of our time has long since forbidden it, even if our war had not riddled slavery to its death with the bullet, and even if the Thirteenth Amendment of the Constitution had not buried it beyond all thought of resurrection.

The conspicuous upheaval of Europe in modern times, led by France, dethroned slavery in 1794. It was never practically established by that country in any of its colonies. England, in 1833, by an act of Parliament proclaimed universal emancipation. Sweden followed in 1844; Denmark in 1847. Mexico took the lead of England for emancipation. When she became independent she decreed emancipation. Spain and Brazil were not backward in pursuing the same course; and the Czar of Russia in 1862 emancipated the serf.

It is no defense of slavery to say that it was harmless bondage two or three hundred years ago, while it was a harsh institution in 1860. It was no better when fixed upon the soil of North America by England and New England, in our infancy, than when, by the strength of the cotton interest, it was aggrandized beyond the anticipation of the founders of our government.

It does not justify the existence of the institution, to recur to the history of its establishment and propagation in America. Suppose it were fixed upon the South against the will of her people, and in despite of the protest of her leading statesmen; is that any reason to justify the shackling of many millions of our human kind? Nor would it justify slavery that the African slave-trade continued under the protection of the American flag and Constitution. Nor would it justify slavery to prove, by colonial and later records, that the Pilgrim Fathers and their descendants were inseparably and profitably connected with this trade. It may be true that one of the Pilgrim vessels, a consort of the Mayflower in 1620, landed the first cargo of slaves in Virginia. It is no doubt true that in 1636 a second cargo was brought into the American colonies, in the ship Desire, of Marblehead. True, it may be, that this cargo was landed at Salem, and that by order of the General Court of the colony the officers of that ship were compensated for their service in keeping and distributing those slaves. It is true that in 1641 the Massachusetts General Court passed an act authorizing slavery, not only of negroes and criminals, but of Indians. The commercial history of Massachusetts furnishes us instructions from owners to commanders of slave ships. The slaves were purchased with New England rum. The officers of the ships were paid in rum and slaves; and by a refinement of elegance, if any old slaves were taken they were "to be close shaved and oiled before going on shore to approve their appearance." The Rev. George Whitfield, through the instrumentality of certain men of New England, took slaves to Georgia against the protest of Governor Winthrop and the trustees of the colony. Up to 1771, the Legislature of Virginia had at twenty-three different times passed acts prohibiting the importation of slaves into that colony; but through the influence of Massachusetts slave-traders, the king would not allow the enforcement of these acts. Suppose these facts to be historic, what do they imply? It is well known that Mr. Jefferson, in his draft of the Declaration of Independence, made that action of the king one of the "repeated injuries and

usurpations" designed to reduce the colonies "under absolute despotism." It is also known that a special committee, of which a Massachusetts member was chairman, struck out this protest. In 1780 Massachusetts adopted a Constitution which contained the Jeffersonian declaration that liberty was an inalienable right. A distinguished Democrat of that state, Theodore Sedgwick, raised the point, which after eight years of litigation was sustained by the court, that slavery was thereby abolished.

It is unnecessary to recount the various acts of the people of this country whereby they early undertook to evince their hatred of slavery. But when the raising of cotton became profitable, slavery received a new impulse, and from that time became more or less aggressive.

The year 1770 marks the period when the planters in the South began to turn their attention to cotton-raising. The value of negro slave labor was not then so much appreciated as in later years. This fact will explain the absence of the word "slavery" from the Constitution when it was originally adopted. It was then expected that the institution would soon die out. In colonial times there was an idea that the upland cotton of America could not be profitably used in textile manufactures. As late as 1787, no cotton was exported from North America. That year, Great Britain imported 32,800,000 pounds from the West Indies, the French, Dutch, and Portuguese colonies, and the Turkish dominions. In 1792 the United States exported only 138,328 pounds. For many years following, little or no cotton was consumed in our manufactures. American cotton was not as clean as that baled elsewhere. Labor could be better employed than in giving it the necessary manipulation. But in the year 1795 Eli Whitney, of Massachusetts, invented the cotton-gin. The effect on cotton production was remarkable. In the year 1807 we exported 55,018,449 pounds of this staple. In 1831 the export was 619,000 bales to Great Britain, 127,000 to France, and 27,000 to other countries. In 1845 our crop amounted to 2,100,537 bales. In the year 1775 that ingenious English weaver, Samuel Crompton, combined the drawing-roller of Arkwright with the jenny of Hargreave, and produced that beautiful, complex machine, to which he gave the appropriate name of the *mule-jenny*. About the same period the celebrated Scotchman, Watt, was engaged in successfully applying his steam-engine to the operation of moving factory machinery. These three men — an Englishman, a Scotchman, and an American, made cotton-raising one of the leading industries of the world. Their inventions greatly benefited mankind; but they also increased the value of negro slaves to an extent never thought of by the framers of the Constitution. With a steady and ever-advancing market for American cotton, was it strange that pecuniary interests in the South should strive for the maintenance of slavery? Is it strange that pecuniary interests now demand concessions to the cotton-factories of New England, in which the labor system is as hard on the operatives as ever

slavery was in the South? It is easy to be a philanthropist when pecuniary interests are not involved. Yet, notwithstanding the strong inducements to the spread of slavery in fields where no other form of labor was possible, it must be said to the credit of the American people, that they were among the first opponents to the slave-trade. The destruction of that trade was in great measure due to their persistent efforts. The writer of this volume, as a member of the Committee on Foreign Affairs, even during the anxieties of the Civil War, took part in assaulting the slave-trade upon the African coast, by international and Federal action. The first debate he ever had in Congress was with Joshua R. Giddings, the celebrated Abolitionist of Ohio, who contended that when the Democratic party came into power with Mr. Buchanan, it was committed to the slave-trade; although by this, as he explained afterwards, he did not mean the slave-trade from Africa, but the inter-state slave-trade.

Slavery in the British-American colonies was not a peculiar institution of the South. It was introduced into all the colonies. It was cherished and sustained by the local laws of each of them. It was not repelled from the cold North by any sentiment among the people. It is to climatic influences, rather than to a love of liberty, that the Northern states owe their early riddance of the institution. Northern people are apt to believe that their ancestors, like themselves, regarded the enslaving a fellow-being as a crime in the sight of Heaven. But their own colonial statutes furnish evidence that even the Puritans of New England were not averse to slavery. The "Forefathers" had virtues which are still celebrated as those of a race chosen by the Almighty. They were a peculiar people,— and yet they were slave-holders. They had their "slave-codes." Their codes might have served as models for the ultra slave-holding southwestern communities of thirty years ago. Colonial New-York, New Jersey, and Pennsylvania were little, if any, more troubled than their New England neighbors in respect to the morality of the "institution." The slave-codes of the colonies are evidence that the great mass of the people sustained slavery. In New England, in the days when slavery was sanctioned by rigid laws, no one was allowed to vote who was not a member of the established Puritan, or Congregational church. And in the other Northern states the right of suffrage was far from being universal.

In those good old days it was the "saints" and the better sort of people —the elect and the electors — and not the sinners and base fellows, who practiced slave-holding and prescribed slave-codes. Then, Rum and Religion formed a sweeter euphony than in days more recent and eventful.

Mr. William Goodell, a high anti-slavery authority, in his work entitled *Slavery and Anti-Slavery*, says of the introduction of slaves:

"The colonies now known as the Southern or Slave States, on the Atlantic Coast, received the principal share of these importations. The mid-

dle and eastern colonies received comparatively few, and these chiefly for domestic servants in the cities, and in the families of professional gentlemen in the interior. As the soil was not adapted to slave culture, and was owned in small farms by a hardy race of agriculturists, inured to habits of labor, the process of cultivation by slaves never obtained, particularly in New England, except to a very limited extent. In New-York, first settled by the Dutch, in New Jersey, and perhaps in some portions of Pennsylvania, the labor of slaves was introduced to a greater extent than further east. But in the importation of slaves for the Southern colonies, the merchants of the New England sea-ports competed with those of New-York and the South. They appear, indeed, to have outstripped them, and to have almost monopolized, at one time, the immense profits of that lucrative but detestable trade. Boston, Salem, and Newburyport in Massachusetts, and Newport and Bristol in Rhode Island, amassed in the persons of a few of their citizens, vast sums of this rapidly acquired and ill-gotten wealth, which, in many instances, quite as rapidly, and very remarkably, took to itself wings and flew away. In some cases, however, it remained, and formed the basis of the capital of some prominent mercantile houses, almost or quite down to the present time. Citizens, honored with high posts of office in the state and Federal governments, have owed their rank in society, and their political elevation, to the wealth thus acquired; sometimes thus acquired by themselves since the colonies became states, and while the traffic was tolerated, as it was, till the year 1808."

Such is the frank statement of honest William Goodell, the radical abolitionist and historian. Slavery in early New England was of a mild type. It was confined chiefly to the domestic service. Yet not even in Connecticut was there any recognition of the legality and validity of a slave's marriage. From the same source we derive still more discreditable illustration. A pastor was the owner of a male and a female slave. He had admitted them both to the communion of his Congregational church. He had officially pronounced them husband and wife. Afterwards he separated them forever by the sale of the wife to a distant purchaser, in spite of the entreaties of both wife and husband. Was there no court of law, no church, no ecclesiastical body to interpose or even censure? None whatever. In "Massachusetts," Mr. Goodell says, "another Congregational pastor, of high reputation, is said to have reared up a female slave in his family in a state of almost absolute heathenism, and never attempted to teach her the alphabet." Mr. Goodell states that during the colonial period, and long after independence was declared, "a large portion of the ministers of religion in New England were among the slave-holding class of the community"; and that "many of the present ministers of New England are the sons, and most of them the successors, of slave-holding ministers."

So late as 1831, Mr. Arthur Tappan, the Rev. Simeon S. Jocelyn, and other Connecticut gentlemen proposed to establish a school in New Haven

for the education of colored people; but so violent was the opposition that they were forced to abandon the enterprise. In 1833, Miss Prudence Crandall was prosecuted and imprisoned for teaching a school of colored children at Canterbury, in the same state.

Such historical facts should have been kept in view while the anti-slavery controversy was in progress. If Northern philanthropists and public men had freely admitted them, their arguments would have had far more weight with Southern men. With such an ancestry and history, the people of New England could ill afford to assume the attitude of the Pharisee, and say to the South, "I am holier than thou."

But slavery gradually disappeared in New England. It vanished from all the states north of Mason's and Dixon's line. The anti-slavery sentiment which was early developed grew apace, as the evil receded before climatic causes. The growth of intelligence gave strength to the spirit of liberty. After the middle of the eighteenth century it gave new force to the judgment of history against slavery. When the Revolution of 1776 came on, there were few enlightened men, north or south, who did not deplore the evils of slavery.

It has been said in a preceding page of this chapter that the cultivation of cotton, which rapidly developed during the first half of the present century, had the effect of greatly enhancing the value of slave labor. There was a worse consequence. Southern sentiment changed in regard to the institution. When the chief staples peculiar to the South were rice and indigo, the strong pro-slavery sentiment was confined to South Carolina and Georgia. When cotton, which could be profitably cultivated in all the states south of Virginia and Kentucky, became the great staple of the world's commerce, the area for the employment of slaves became co-extensive with the South. The progressive demand for cotton in Europe and America more than kept pace with its production. It was thought desirable to acquire new territories adapted to its growth. Hence the Southern people became sensitive on the subject of slavery. Their interests made them more tenacious of their rights, as citizens of independent and co-equal states. They were intensely jealous of the interference from abroad with their domestic affairs.

The preservation of slavery was not regarded, in the South, as a matter of vital importance during, or for some time after, the Revolutionary era. This is manifest from the positions taken with reference to it by leading public men. Most Southern statesmen regarded it as a great evil. They lamented their inability to remove it. This was the attitude of all the great Virginians. The list includes among many others of note, Washington, Jefferson, Madison, Monroe, Henry, George Mason, Wythe, and John Randolph. The leading men of Maryland did not regard slavery with favor. James Iredell, of North Carolina, afterwards a judge of the Supreme Court of the United States, Dr. Hugh Williamson, and other eminent men of that state were equally pronounced against slavery.

Under the constitution of North Carolina of 1776, the free people of color were recognized as citizens and voters. The following brief extract from the journals of the Continental Congress shows what so eminent a man as Mr. Jefferson thought of the power to exclude slavery from the territories under the Articles of Confederation, and of the duty of Congress in the premises:

April 19, 1784. "Congress took into consideration the report of a committee, consisting of Mr. Jefferson [of Virginia], Mr. Chase [of Maryland], and Mr. Howell [of Rhode Island], to whom was recommitted their report of a plan for a temporary government of the western territory;

"When a motion was made by Mr. Speight [of N. Carolina], seconded by Mr. Read [of S. Carolina], to strike out the following paragraph:

"'That after the year 1800 of the Christian era, there shall be neither slavery nor unvoluntary servitude in any of the said states [new states to be formed], otherwise than in punishment of crimes, whereof the party shall have been convicted to have been personally guilty.'

"And on the question, Shall the words moved to be struck out stand? (in other words, shall the motion be rejected), the yeas and nays being required by Mr. Howell, the vote was:

New Hampshire,	Mr. Foster, Aye. Mr. Blanchard, Aye.	Aye.
Massachusetts,	Mr. Gerry, Aye. Mr. Partridge, Aye.	Aye.
Rhode Island,	Mr. Ellery, Aye. Mr. Howell, Aye.	Aye.
Connecticut,	Mr. Sherman, Aye. Mr. Wadsworth, Aye.	Aye.
New-York,	Mr. DeWitt, Aye. Mr. Paine, Aye.	Aye.
New Jersey,	Mr. Dick, Aye.	
Pennsylvania,	Mr. Mifflin, Aye. Mr. Montgomery, Aye. Mr. Hand, Aye.	Aye.
Maryland,	Mr. McHenry, No. Mr. Slone, No.	No.
Virginia,	Mr. Jefferson, Aye. Mr. Hardy, No. Mr. Mercer, No.	No.
North Carolina,	Mr. Williamson, Aye. Mr. Speight, No.	Divided.
South Carolina,	Mr. Read, No. Mr. Beresford, No.	No.

"So the question was lost, and the words were struck out."

The Articles of Confederation between the thirteen states required the assent of at least seven to every ordinance or law. Measures of importance required the concurrence of nine states. Each state was entitled to one vote, but might send to the Congress from two to seven members; never less than two, nor more than seven. But it was necessary for them, or a majority of them, to agree among themselves on every question. Thus only could they give an effective vote. If equally divided, their votes counted for nothing, as in the above case in which the two delegates from North Carolina voted, one *aye*, and the other *no*. In the case of Virginia, Mr. Jefferson's vote was overcome by that of his two colleagues. As each state was required to have at least two delegates, the single vote of Mr. Dick, of New Jersey, could not be counted. Mr. Chase, of Maryland, seems not to have been present. The Articles fail to state whether the making of ordinances for the government of the territories required more than seven votes, but the great importance of the measure would seem to place it in the category of those requiring nine votes. If only seven were necessary, then the anti-slavery ordinance of Mr. Jefferson was defeated by the accidental absence of a member from New Jersey.

It must be borne in mind that this anti-slavery ordinance of the great Virginian covered the whole Territory of the United States, down to the southern boundary. That boundary was then the thirty-first parallel of latitude. It included what was afterwards Kentucky, Tennessee, Alabama, and Mississippi. Louisiana and Florida were then foreign territories.

If Mr. Jefferson had had for colleagues, Mr. Madison and George Mason, Patrick Henry, or George Wythe, the vote of Virginia would have been in favor of this anti-slavery ordinance. If Dr. Hugh Williamson had had for a colleague, James Iredell, it is probable that the vote of North Carolina would have been on the same side. But would a congressional ordinance for the exclusion of slavery from those southern territories have been effectual? Hardly. Still, the fact that Mr. Jefferson, always a popular favorite in the South, presented and voted for the ordinance, shows that slavery was at that day far from being regarded as a vital interest of the South.

The acquisition of Louisiana, which embraced the whole of the territory west of the Mississippi River,— except what is now Texas, and that purchased or obtained from Mexico,— cannot be charged to the spirit of slavery propagandism. The diplomatic correspondence on the subject of the purchase leaves no doubt on this point. Neither Mr. Jefferson nor any member of his Cabinet, nor Mr. Robert R. Livingston, of New-York, the Minister to France, who carried on the negotiation, nor Mr. Monroe, the special envoy sent out with the last instructions from Washington, had the remotest idea of making such a proposal. When Napoleon made the offer through his Secretary of Foreign Affairs, it was not regarded with favor by Mr. Liv-

ingston, nor Mr. Monroe. They greatly feared that if they so far exceeded their instructions as to enter into a convention on that offer, their act would not be sustained by the President and by Congress. It was only when Napoleon made it an ultimatum, that they agreed to take that vast territory. The price paid was the pitiful sum of fifteen millions of dollars. But it is a precious memento of Democratic sagacity beyond computation. The instructions were to acquire the east bank of the Mississippi down to the Gulf, and as much of Florida as was practicable. Florida lay contiguous to Georgia, to the Alabama and Mississippi Territories, and near to South Carolina. The Florida Indians, or Spanish and English traders among them, were likely to give great annoyance to our southern frontiers.

Strange to say, the value and importance of the country west of the Mississippi was then greatly underrated. It was not until the purchase had been made that our statesmen began to realize that an acquisition of incalculable value and incomparable destiny had been thrust upon them. If the slave-holding interest had been aggressive then, as it was thirty years later, Texas would have been included in the purchase; but the truth is, that to the most far-seeing statesmen of that day, the time seemed indefinitely remote when the South would need an outlet for the slave population.

Neither was the acquisition of Florida, sixteen years later, prompted by the spirit of slavery propagandism. When that took place, Mr. Monroe was President, but John Quincy Adams was Secretary of State. It was the Massachusetts statesman who negotiated the purchase. The object was to extend our borders to the Gulf. The control of a country which had become a source of annoyance would thus be secured. Slavery existed in Florida, under Spanish rule. There was no likelihood that Florida would ever fall into hands unfriendly to the institution; for England then, no less than France and Spain, had her slave-holding colonies. If the attempt had been made to exclude slavery from Florida when the territory was purchased, the storm of opposition on the part of the South would have exceeded that which followed the similar attempt in regard to Missouri. But nothing of the kind occurred.

Strong opposition was made by Mr. Quincy, of Massachusetts, to the admission of Louisiana as a state. He was sustained in this course by his constituents. He contended that it was a flagrant violation of the Constitution, because there was no provision for the admission of states formed on territories which were not owned by the Union when the Constitution was framed. The predominant feeling in New England at that time was one of opposition to Southern aggrandizement, rather than to slavery in its moral aspects. New England was violently opposed to the war with Great Britain, and the admission of Louisiana would give strength to the war party in the country. The opponents of admission naturally appealed to the moral sentiments of the people on the question of slavery, but this oppo-

sition to slavery was by no means the controlling motive in opposing the admission of Louisiana as a state.

The first great anti-slavery agitation arose in connection with the measures looking to the admission of Missouri as a state of the Union. The American emigrants to that country had gone chiefly from Virginia, Kentucky, and Tennessee; many took with them their slaves. They were preceded by the French, who early in the eighteenth century had made settlements at St. Louis and other points. The French had introduced slavery. When application was made by the people of the territory for admission into the Union as a state, the constitution presented by them contained a clause which recognized the existence of the institution. The anti-slavery sentiment of the North, backed by the political or sectional jealously which had begun to be aroused by diversity of interests, was inflamed. This attempt to establish slavery in the vast region beyond the Mississippi was a provocation and an incentive. The South became wildly intolerant of opposition. It became keenly alive to the greatness of the issue. Whatever of sentimental opposition to slavery there was in that region was crushed. Even Mr. Jefferson, in his quiet retreat at Monticello, was deeply agitated. He sounded the note of warning. He declared in letters to his friends that the news of the violent opposition to the admission of Missouri fell upon his ears like a fire-bell in the night. Mr. Clay, then comparatively a young man, but never wedded to slavery, resisted the Northern attempt to prohibit the expansion of the institution.

The support of the claims of slavery to recognition by the Constitution thus became, in the South, the political touchstone.

It was not so easy to unite the North in opposition to this claim. The opposition proposed to sectionalize, or localize the institution, by prohibiting it in the territories. A succession of events, of great importance, all tended to this result. This Missouri question was the first of the great disturbing elements. After a long and bitter controversy upon the admission of that young state, a compromise was agreed upon. The North and the South may be said to have been parties to this compact, though it was repealable like all laws. The state was admitted with its pro-slavery constitution. The same act prohibited slavery in all the territories north and west of it, down to the parallel of thirty-six degrees and thirty minutes. There was no provision for the admission or exclusion of slavery south of that line.

This Missouri question gave rise to the first heated and extended agitation on the subject of slavery. It laid the foundation for future controversies. It ultimately led to war.

The second great agitation on slavery, as a political, moral, and social question, arose in connection with the annexation of Texas. That vast Mexican province was thinly peopled by an ignorant and feeble race. It began to be overrun by planters with their slaves from our Southern States.

This movement occurred about the close of the first quarter of the present century. In the course of ten years they became its masters. In 1836 they declared independence. They set up a republican form of government, with slavery as an existing institution. From the first, there was a strong feeling in favor of annexation to the United States. This event was brought about in the spring of 1845, near the close of John Tyler's administration. To Mr. Calhoun, of South Carolina, then Secretary of State, is due the chief merit of the acquisition. He hesitated not to avow that annexation was necessary to the preservation of slavery.

This measure was the great issue between the parties in the Presidential canvass of 1844. It led to the overthrow of the leaders of both the great parties. Both President Van Buren and Mr. Clay, though differing widely upon other questions, agreed upon the question of annexation.

The former, in a public letter, said he opposed annexation on the ground that Texas had been a province of a country with which we were at peace; and that annexation would be an act of war, or lead to a declaration of war by Mexico.

Mr. Clay, in a public letter, said: "I consider the annexation of Texas at this time, without the assent of Mexico, as a measure compromising the national character, involving us certainly in war with Mexico, probably with other foreign powers, dangerous to the integrity of the Union, inexpedient in the present financial condition of the country, and not called for by any general expression of public opinion."

This expression of opinion on the part of Mr. Clay was afterwards — July 1, 1844, — qualified by a letter to a Southern friend. It is thought by many that this led to his defeat. He said: "As to the idea of courting the abolitionists, it is perfectly absurd. No man in the United States has been half as much abused by them as I have been. . . . Personally I could have no objection to the annexation of Texas; but I certainly would be unwilling to see the present Union dissolved, or seriously jeoparded, for the sake of acquiring Texas."

This expression of indifference to the acquisition of slave-holding territory lost to Mr. Clay thousands of Northern votes; while, as he retracted nothing of his original declaration, it gained him none in the South. He was nominated by the convention without opposition, and there can be no doubt that he had more warm personal friends than any man in America.

Mr. Van Buren, too, was the favorite of his party. A decided majority of the convention were his pronounced friends. They gave him 146 votes, against 120 for all others. But Mr. Hammond, in his valuable political history of New-York, charges that many delegates who were instructed to vote for him were his secret political foes, and conspired with his open opponents to defeat him by voting with them for the rule which required two-thirds of the votes to effect a nomination. It was charged that Mr.

Buchanan, and Mr. Cave Johnson, of Tennessee, were in the conspiracy. Under that rule it became apparent, after seven ballots, that Mr. Van Buren could not receive the requisite two-thirds of the ballots; when his friend, Benjamin F. Butler, of New-York, by his authority, withdrew his name.

Silas Wright, of New-York, might have been received in Mr. Van Buren's place; but he peremptorily declined to have his name used, for a two-fold and honorable reason. It might appear like bad faith to his friend, Mr. Van Buren; while it would mislead the public, inasmuch as he fully subscribed to the views expressed by Mr. Van Buren on the question of annexation. For like reasons Mr. Wright declined the nomination for the Vice-Presidency.

Some controversy ensued from these events.

Mr. Polk was nominated with the understanding that as the friend of General Jackson, he was also the friend of Mr. Van Buren. The Democrats of Tennessee were understood to be his friends. But when Mr. Polk came into office he appointed to high places the men who had conspired against Mr. Van Buren. At least, this is the statement of Mr. Hammond, who says:

"After Mr. Polk's election, Mr. Buchanan, who at the convention influenced the delegation of Pennsylvania against Mr. Van Buren, was appointed Secretary of State. Mr. Walker, a most zealous opponent in the convention of Mr. Van Buren, was made Secretary of the Treasury; Mr. Cave Johnson, the confidential friend of the New-York delegation, received the office of Postmaster-General; and on General Saunders (the mover of the two-thirds rule) was conferred a foreign mission."

It has also been stated that Mr. Polk discarded Messrs. Blair and Rives, the friends of Mr. Van Buren, as editors and publishers of the party organ in Washington. An organ was in those days regarded as an indispensable institution to the party in power. Mr. Polk selected Mr. Ritchie of the Richmond *Enquirer* for that confidential and lucrative post. Mr. Benton, in his *Thirty Years' View*, calls attention to this fact. He states that the change was made on the demand of the South Carolina delegation, as a condition of their support.

To return from this explanatory digression, the election of Mr. Polk was the triumph of the active, aggressive policy of the Southern friends of slavery extension in the Union, over the passive, evasive course of the Whigs, and of the Northern Democrats.

James G. Birney became the anti-slavery candidate for the Presidency. He received 62,300 votes in the entire Union. Of these, New-York gave him 15,812. This was enough to have turned the scale in favor of Mr. Clay, and to have made him President. Mr. Van Buren's plurality in New-York was only 5,109. Mr. Polk's plurality over Mr. Clay in the Union was 38,175; while the combined votes of Messrs. Clay and Birney exceeded the vote of Mr. Polk by 24,125.

The annexation of Texas led to a war with Mexico. It was followed by the acquisition of vast territories. Further and greater controversies about slavery extension were aroused.

California was brought into the Union without an enabling act. The people assembled in convention without the authority of Congress. They framed a constitution which prohibited slavery. The state was admitted with this anti-slavery constitution. It involved a desperate struggle with the slave-holding interests. This result was planned, though not consummated, during the administration of General Taylor, a large Louisiana planter. He died July 11, 1850, and California was admitted as a state of the Union on September 9th of the same year.

In view of the ultimate results of these sectional struggles, how frail and pitiable appears our human wisdom! The South, in the interests of slavery, succeeded in annexing Texas. Other vast Mexican territories were acquired, over which it was hoped that slavery would be extended and perpetuated. The North, or a large party in the North, resisted the annexation and acquisition of Mexican territory. The resistance came solely from motives of opposition to slavery and its extension. But the triumphant party soon found that a large part of the golden prize was appropriated by their opponents; and in the end the institution of slavery itself tottered to its fall.

The deep fracture in the Democratic ranks caused by the defeat of Mr. Van Buren's nomination in 1844 was never healed. It led to the candidacy of Mr. Van Buren on the "Free Soil" ticket, and to the defeat of the party under the leadership of General Cass, in 1848. Mr. Van Buren led a forlorn hope. He had the splendors of his son's rhetoric, which aroused a dormant sentiment. The votes of a majority of the party in the State of New-York were given to him. The vote for General Taylor, the Whig candidate, was 218,603; Mr. Van Buren received 120,510; and General Cass, the regular candidate of the party, only 114,318. In the Union, Mr. Van Buren, who was cordially supported by the anti-slavery party, or that portion of it which voted at all, received 291,263 votes.

In 1852, the anti-slavery candidate, John P. Hale, received only 156,149. This result shows that the merely personal following of Mr. Van Buren returned to the Democratic fold when he was no longer in the field.

In 1850, a sort of compromise of the slavery controversy was effected. It was far from being satisfactory to the abolitionists, and the extreme pro-slavery party. It served, however, to remove from prominent view any question calculated to arouse popular feeling.

It is true that the fugitive-slave act of 1850 was well calculated to keep up and did foster agitation. It produced almost daily causes of irritation and excitement. Anti-slavery sentiment fed upon this food. It became the subject, and furnished the incidents of the most exciting story of the age, *Uncle Tom's Cabin*. Millions of copies were circulated. It was

translated into every language of Christendom. It awakened a sentiment against slavery, akin in degree and intensity to that which Peter the Hermit aroused against the Moslem occupants of the Holy Land — the defilers of the Holy Sepulchre.

In December, 1853, Senator Douglas, of Illinois, introduced a bill to organize the vast Territories of Kansas and Nebraska. He desired them to be under one government, and on the basis of the existing Missouri Compromise. These territories all lay north of 36°, 30′, and slavery had been prohibited throughout its extent, by the act which admitted the State of Missouri into the Union. Mr. Dixon, a Whig Senator from the State of Kentucky, moved to amend the bill by declaring the repeal of the anti-slavery provision. This startling proposition from a Whig emboldened the Southern Senators and Representatives to take, almost in a body, similar ground. It is within the author's personal knowledge that Mr. Douglas was averse to the Dixon proposition. Reluctantly he amended his bill by adopting Dixon's proposition. He undertook to defend it on a principle. He decided to divide the territory into two governments. He thought to make one slave, and one free state. He proposed, but events disposed of his scheme.

In connection with this measure he enunciated his doctrine of popular sovereignty. This doctrine assumed that the citizens of each separate community had the right to shape their institutions to suit themselves; and to admit or exclude slavery as they should see fit. It denied that the Constitution by its own vigor, carried slavery to the territories.

For a time this theory of the Constitution appeared to be acceptable to the South. But it failed to secure the admission of Kansas with slavery, as it had failed in California. The Southern politicians thereupon rebelled against it. The position was boldly assumed by them, that the Constitution established and guaranteed the right of slave-holding in all the territories of the Union; and that an act of Congress, or an act of a territorial legislature providing for the exclusion of slavery, would be an invasion of the constitutional rights of the South, a spoliation of property, and an infraction of a settled compact.

These pretensions of the pro-slavery school of politicians tended greatly to strengthen and augment the anti-slavery party. It divided the old parties The Democracy lost some of its most brilliant defenders. The struggle for the possession of Kansas, between the "Free-soilers" and the pro-slavery party, enlisted the Northern people on one side, and the Southern on the other. There never was such a political conflict. It was the precursor of war. The effect was to intensify the anti-slavery and the pro-slavery sentiment of the country. It did more. It nearly crushed out the Democratic party. It arrayed its members against each other. The conflict in Kansas involved, for a time, physical force rather than reason.

The John Brown raid was a flagrant violation of the rights of Virginia. It seemed at first to injure the anti-slavery cause; but all sympathy with it was promptly disclaimed by the Republican leaders. Its origin has not been traced beyond the narrow circle of Brown's fanatical associates. No man who was not a fit subject for the mad-house could fairly be suspected of sympathizing with an enterprise which was as preposterous as it was criminal.

The Whig party may be said to have disbanded soon after the Presidential election of 1852. The Northern and Southern wings could no longer harmonize on the slavery question. In their desperate efforts to find new common ground to stand on, and new issues upon which to dispute the ascendency of the Democrats, they selected the narrow and illiberal one of restricting the rights of foreigners who come to this country to reside. It aimed at the political ostracism of Roman Catholics. But the pre-eminent importance of the slavery controversy overrode these side issues; and the effect of the American organization was to alienate those who might otherwise have co-operated against the rising party of anti-slavery.

The first serious struggle by the Republicans for power in the Nation was made in 1855. In that year began the famous contest over the Speakership, which, after one hundred and thirty-three ballots, resulted in the election of Nathaniel P. Banks, of Massachusetts. A bare majority of the House of Representatives was then secured by them. The great success of the new party was the legitimate fruit of the pro-slavery policy. The repeal of the Missouri Compromise and the attempts to force slavery into Kansas against the wishes of the people gave great impulse to the new party. In the following year, 1856, the Republicans made a formidable effort to elect a President. They were defeated under their leader, John C. Fremont, by James Buchanan. They then took the lead of the "Americans," as the great party of opposition to the Democracy. In that election, Mr. Buchanan received 1,838,169 of the popular vote, and 174 electoral votes. Mr. Fremont received 1,341,264 of the popular vote, and 114 electoral votes. Mr. Fillmore, the American candidate, received 874,534 of the popular vote, and only eight electoral votes.

While other writers have dwelt elaborately upon the *teterrima causa belli*, to wit, slavery, and exhaustively traced its influence from its earliest establishment in our hemisphere, the author is content to make a less elaborate chapter upon that head. Slavery has been called the trembling needle which pointed the course amidst the tumultuous discussions of our Congresses until the Civil War began. From Jan. 31, 1831, when William Lloyd Garrison established the *Liberator*, the discussion was never remiss upon any opportunity by the slavery and anti-slavery zealots. The motto of the abolitionist was immediate and unconditional emancipation. Considering the relation of slavery to civilization, this sealed its fate. In 1833 the

American Anti-slavery Society made the conflict flagrant. The right of petition, the safeguard of the Constitution, and the fugitive-slave law were only incidental and inflammatory topics leading to the one main question. In the North, abolitionists were hunted by mobs; but they were not hunted so much because they were abolitionists as because the great body of people at that time believed that the agitation of the slavery question would jeopard the Union. The Constitution had been called "a covenant with hell." But slavery could only be legally ostracized and crushed by an amendment of that instrument. This it received at the end of the war, in the mode prescribed by the framers of the Constitution. The question was finally settled by the defeat of the secession movement, which was designed to maintain slavery in full vigor on this continent.

When, in 1856, Mr. Seward declared that there was an "irrepressible conflict" between freedom and slavery, his political opponents charged and believed that his purpose was to bring about the conflict. They regarded him as an unscrupulous demagogue, who was willing to inflame popular passions at the risk of producing civil war, if he could thereby make himself President of the United States. But now, in the light of American history, all candid readers will admit that whatever may have been the motive of that great statesman, he enunciated the truth in trenchant language. For, from the foundation of the government down to the era of the Civil War, the collisions and irritations between our incongruous social forces became more and more frequent and exasperating as the progress of population brought them into closer contact. The increasing facilities of intercourse made it easier for slaves to run away. The Constitution required that the runaways should be "delivered up" to their masters; and the fugitive-slave acts required that the surrender should be made without a trial by jury. Such proceedings naturally awakened a strong feeling among Northern people in regard to the injustice of slavery, the inconsistency of the system with the principles of civil liberty, and their own responsibility for the existence and enforcement of the unjust laws. The extension of slavery into the territories was another great source of irritation and alienation of feeling between Northern and Southern men. It involved the moral responsibility of Northern communities in the sin of spreading the institution over the continent; while at the same time, slavery extension served to strengthen the political power and influence of slave-holders in the government. As already shown, Texas was annexed, as Mr. Calhoun avowed, for the purpose of strengthening slavery. It has been stated by Mr. Stephens, of Georgia, that, down to the year 1861, the South, although inferior in population and wealth to the North, had at all times a large majority of the Federal offices of the higher grades.

These moral and political considerations naturally tended to arouse a feeling of hostility to the South. Humane people revolted at the injustice

of laws which called upon them to hunt down their poor neighbors who had committed no crime, and which required them to aid in sending fellow-beings into perpetual bondage. Statesmen, and even mere politicians influenced by no high regard for manhood rights, saw their advantage in strengthening a sentiment which was rapidly developing into a tremendous political force. There were in the North many earnest and able men working against slavery with singular disinterestedness and inflexible purpose, in season and out of season, by speech and writing. These, with the devotion of the prophets of old, were untiring in the great cause of arousing the public conscience against the "Sin of Slavery." These men were not always judicious; they were not just to those who differed from them. They were often extravagant and even fanatical, but they never faltered in their adherence to the great central truth of human liberty. These men would, at any time, have sacrificed the Union rather than sustain political relations with the South. On the other hand, there were in the South great statesmen, men of large humanity and generous principles, who saw no sin in slavery, who found sanction for it in Holy Writ, who believed in that system of labor as the only one adapted to their soil and climate. These men, like their brethren of the North, would also sever their Federal relations rather than submit to what they regarded as an unjust and fanatical interference with their inalienable rights under the Constitution. Of these men, John C. Calhoun was both a type and leader, in the long and bitter anti-slavery contest preceding the war. He is much misunderstood in the North. A sketch of that great and good man will close this chapter.

John Caldwell Calhoun was of Irish Presbyterian stock. He was descended from a race of Calvinists, distinguished above all others for holding "fast to the faith" that was in them. With men of this stock, to believe was to know. To know was to act. No argument, opposition or persecution in any form, could dissuade them from action. Calhoun saw no wrong in slavery. In his eyes the institution was "a good — a positive good."

Calhoun was born in Abbeville, South Carolina, March 18, 1782. His grandfather was James Calhoun. He emigrated from Donegal, Ireland, in 1733, to Pennsylvania. He afterwards moved out on the Kanawha in Virginia. In 1756 he settled in South Carolina. James' son, Patrick, married Martha Caldwell, the daughter of an Irish Presbyterian emigrant. She was the mother of John C. Calhoun.

John spent his youth on his mother's farm. His father died while he was a child. Although his mother was left in moderate circumstances, he had few advantages of early schooling. When he reached the age of eighteen he began a course of systematic study. He prepared for college under the instruction of his brother-in-law, Dr. Waddel, a Presbyterian clergyman. He entered Yale, and at the age of twenty-two graduated with high honors.

After this, he devoted three years to the study of law. Half of this

time he spent at the law-school in Litchfield, Conn. Having completed this course, he returned to Abbeville and engaged in the practice of his profession. But the law was not his forte. The great questions of the day attracted his scrutiny. Politics offered a field for his eloquence. They suited his fervid nature and patriotic ambition. Soon he represented his district in the state legislature. In 1811 he was elected as a Representative to the Twelfth Congress. The same year he married his cousin Floride. She was possessed of sufficient means to enable him to pursue the career on which he had entered, with the assurance of a modest competence. He took an exceptionally high position in the House from the beginning. At his first session Henry Clay — then Speaker — appointed him to the second place on the Committee on Foreign Relations. That committee had before it the question of the proposed war with Great Britain. The part of the President's message which related to the outrages committed against our commerce and flag by that Power was referred to this Committee.

Mr. Calhoun wrote the report that was afterwards presented to the House. It was strongly in favor of war, as will be seen by the following extract:

"The period has arrived when, in the opinion of your committee, it is the sacred duty of Congress to call forth the patriotism of the country."

There was a boldness in this report, and in his speech in favor of the Resolutions which were afterwards adopted, that was characteristic of the man and of the period. Randolph opposed the report. He opposed all measures looking to war. He opposed them with great bitterness. But Calhoun, although in his first session, was a worthy foeman. His was no compromising spirit, ready to yield a part to save the residue. His motto was expressed in his first speech. It was this: "The law of self-preservation is never safe, except under the shield of honor."

But it is not intended here to review the career of this great American. It is only intended to describe his true status and stature in respect to the two great questions with which his name has been associated, to wit: "Nullification" and "Secession"; both inspired by the hope to protect slavery. He was a nullifier, but never a secessionist. He regarded secession as revolution, no more, no less. There is not one word in his writings or public utterances that can fairly be construed into holding secession to be a constitutional remedy. He always spoke of that remedy as something outside of the Constitution. He never advocated it. Nullification is a different question. He regarded it as a constitutional remedy. His opinion was that each state of the Union had the power to decide for itself in respect to the constitutionality of any Federal law, and to resist its enforcement within the state, if the people regarded it as unconstitutional. This he believed to be the right of the people within the Union; and he saw no inconsistency in this doctrine.

Mr. Calhoun regarded slavery as a natural relation. Of all the questions of the period, it was the abolition movement that gave him the deepest concern. He firmly believed that in the event of its success, the fate of the Southern people "would be worse than that of the aborigines." To destroy the relation of master and slave would be to restore the fruitful fields of the South to their primeval condition. Calhoun clearly saw the coming conflict. He did not see anything but ruin in emancipation. "To destroy the existing relations," said he, "would be to destroy the prosperity of the Southern States, and to place the two races in a state of conflict which must end in the expulsion or extirpation of one or the other." He regarded social and political equality as the necessary incidents of emancipation, and believed that such equality between the races was impossible. How fallible at the best is human judgment! In Calhoun's life-time, the great mass of the American people were conscientious believers in the incompatibility of the two races. Even Lincoln, at first, looked to the expatriation of the emancipated slaves, as the only practicable course. Yet, what a change of conditions; what an explosion of political and social fallacies, and decay of prejudices has this generation witnessed! Slavery has been abolished. Each year brings to the South a larger return from its industries. In Calhoun's own state the former slave and master now exercise the political and civil functions of citizenship with equal right. Social equality still remains as impracticable as Calhoun regarded it. It does not exist in any race or people. It never will. Some must ever be the masters. The mass must ever be the hewers of wood and the drawers of water. He had less apprehension of the destruction of the Union by the assertion of states rights through secession, than of its destruction by consolidation. Any one who has observed the tendency toward the latter mode of destruction will not be disposed to disregard its dangers.

In the commencement of his career, Mr. Calhoun favored what was afterwards known as Whig measures, viz., a national bank, a protective tariff, and the development of internal improvements by the general government. About the year 1823 he changed his views in regard to these measures, and in 1828 he characterized the tariff bill of that year as a "bill of abominations." This was the bill that led to the nullification act in South Carolina. He devoted his life to the maintenance of slavery and the preservation of the Union. He died on the last day of March, 1850, almost in the forum. The last words of his last speech in the Senate, uttered in the early part of that month, were these: "Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility." Two friends then led him out of the Senate Chamber, and his seat was vacant.

CHAPTER III.

THE THIRTY-FIFTH CONGRESS — ITS ORDEAL AS TO SLAVERY EXTENSION — KANSAS AND THE TERRITORIAL QUESTIONS — QUADRILATERAL CONTEST FOR THE PRESIDENCY — THE CHARLESTON CONVENTION — THE DOUGLAS MAJORITY — THE TWO-THIRDS RULE — THE SOUTHERN DELEGATES WITHDRAW — MR. LINCOLN ELECTED — THE SPECTRE OF WAR.

THE writer of this volume begins the first of his three decades in 1855. But he was not then a member of Congress. It was the refluent wave that followed the excitement growing out of the Kansas question, which carried him into that position with the administration of Mr. Buchanan. That issue was triangular. It had been somewhat changed in so far as the Northern states were concerned. The Southern party had insisted on the doctrine that the Constitution by its own vigor carried slavery into the territories. This was the Breckenridge, or extreme Southern doctrine. The Southern vote was in its support. But the great bulk of the Northern Democratic vote favored the doctrine of Judge Douglas, familiarly called "Squatter Sovereignty." The Republican party favored a congressional *proviso*, like that of Judge Wilmot, forbidding slavery in the territories.

The travail which gave birth to Kansas as a state was the old agony as to slavery. It was prolonged and it eventuated in civil strife.

To understand the immediate cause of the war requires a special discussion of the conduct of the Thirty-fifth Congress. Its Speaker was a liberal South Carolinian, James C. Orr. He afterwards took a large part in the resurrection of his state after the war. The consequences of congressional action as herein detailed bring us very close to the great struggle which threatened the Union with disseverance, and seemed to set back the hands on the dial-plate of time in our Western Continent.

Had the Democratic party which came into power with Mr. Buchanan and the Thirty-fifth Congress united in wisdom to thrust aside the Lecompton

Constitution, there would have been no distraction in its ranks as early as 1860. But it is not so sure that the slavery question would not have come in some other form to have kept up the irrepressible conflict. Had they thus united, perhaps the Charleston Convention of 1860 would have agreed.

In inquiring into the real, if not the proximate causes of the war and the alienation of the sections, we cannot ignore the questions as to Kansas.

To be sure, Kansas was the occasion, rather than the cause, of conflict. The slavery agitation was the paramount cause. There is something ineffably repugnant to the human heart in the relation of master and slave. The idea of one human being owning another human being would thrust itself forward in all these struggles, irrepressibly foremost. Whether in resistance to the constitutional authorities — as in the case of fugitives from justice and labor — or in the admission of new states, or in the organization of territories, the anti-slavery zealot, whether sincere or not, handled a weapon so tempered with seeming justice, so flashing, as it were, in defense of a higher than human law, and wreathed as with the "beauty of the lilies" by the lyric poetry of the time, that the sanctions of authority were as mere houses of cards before his blows. No wonder that with such an impulse the devotees of anti-slavery, in the language of one of their eloquent champions, "would rend the Union to destroy slavery, though hedged round by the triple bars of the national compact, and though thirty-three crowned sovereigns, with arms in their hands, stood around it." The pro-slavery men of 1856–7 forgot the growing power of this sentiment, and the increasing power of the North to enforce it. They desperately struggled to force Kansas into the Union as a slave state, by a stupendous fraud. In the reaction against its perpetration, a fresh agitation was aroused. This new agitation outlasted the interest in the case of Kansas. It absorbed all the energies of debate. The whole country became a Kansas. The first elaborate speech made by the author in Congress, and, as already noted, the first made in the new hall of the House, on the 16th of December, 1857, was also the first delivered against Lecompton by any one in the lower branch of Congress. It was taken to Judge Douglas on the Sunday preceding the discussion, to read him parts of it in manuscript. The *Globe* of that time will show the debate and the attempt by Southern statesmen, Messrs. Bocock, Quitman, Jones, and others, to cut it off. As a consequence of this speech, the writer lost caste with the Administration.

The excitement accompanying that discussion has long since subsided. The points of the argument will appear from this extract:

"I propose now to nail against the door, at the threshold of this Congress, my theses. When the proper time comes, I will defend them, whether from the assaults of political friend or foe. I would fain be silent, sir, here and now. But silence, which is said to be as 'harmless as a rose's breath,' may be as perilous as the pestilence. This peril comes from the at-

tempt to forego the capital principle of Democratic policy, which I think has been done by the constitutional convention of Kansas. I maintain: 1. That the highest refinement and greatest utility of Democratic policy — the genius of our institutions — is the right of self-government. 2. That this self-government means the will of the majority, legally expressed. 3. That this self-government by majority rule was sacredly guaranteed in the organic act of Kansas. 4. That it was guaranteed upon the question of slavery in terms; and generally with respect to all the domestic institutions of the people. 5. That domestic institutions include all which are local, not national — state, not Federal. The phrase means that and that only — that always. 6. That the people were to be left perfectly free to establish or abolish slavery, as well as to form and regulate their other institutions. 7. That this doctrine was recognized in every part of the Confederacy by the Democracy; fixed in their national platform; asserted by their speakers and presses; reiterated by their candidates; incorporated in messages and instructions; and formed the feature which distinguished the Democracy from the opposition, who maintained the doctrine of congressional intervention. 8. The Lecompton Constitution, while it is asserted that it is submitted to the people in the essential point, thus recognizing an obligation to submit it in some mode, cannot, in any event, be rejected by the people of Kansas. The vote must be for its approval, whether the elector votes one way or another. The people may be unwilling to take either of the propositions, and yet they must vote one or the other of them. They have to vote 'constitution with slavery,' or 'constitution with no slavery'; but the constitution they must take."

These were the points elaborated in that discussion. Differing with Mr. Buchanan, the author was constrained afterwards to differ with Judge Douglas on the Compromise bill reported by a Committee of Conference. He voted for the latter on the ground that it returned for a fair election the fraudulent constitution to the people, and because there were people enough for a state in Kansas. This action was fully justified by the subsequent action of the people under that bill. Subsequently the writer voted to receive the free State of Kansas; and, after justifying his former vote, scarcely exaggerated the rancour of the campaign, when he said in the House that:

"For voting for this Conference bill, even after I was justified by the popular vote of Kansas in the summer of 1858, I was compelled to meet from Republicans of Ohio a campaign unexampled for its unprovoked fierceness, its base and baseless charges of personal corruption, its conceit, its ignorance, its impudence, its poltroonery, its billingsgate, its brutality, its moneyed corruption, its fanatical folly, its unflagging slang, its drunken saturnalia, and its unblushing libels and pious hypocrisy! [The writer had not then learned meekness.] At the capital of Ohio, in its most noble and intelligent precincts, the people, ashamed of and indignant at the audacious falsehood and brazen clamor from the presses of the state, and from the little penny-a-

liners and pettifoggers, who echoed the libels of members fresh from this floor — in spite of all this, the people doubled my majority of 1856. I had the satisfaction — prouder than a temporary victory — of seeing the policy I had voted for with the earnest conviction of duty, and with the sustaining advice of such a statesman as Robert J. Walker, vindicated by time, and sustained by its practical operation. As the crowning act of this triumph, I shall vote for the admission of Kansas under this constitution. In doing this, I court all criticism, defy all menace, and truly represent almost every man, woman, and child in my district."

Inasmuch as that vote for the Conference bill was greatly impugned and as it seemed to be a departure from the original position of Judge Douglas, the writer was solicitous to have the Judge explain their mutual relations to this question. This he did during the campaign of 1860. On the 20th of September he spoke to an immense meeting at Columbus, Ohio, in which he thus explained the differences between himself and other Democrats:

"I made the first speech in the Senate against the Lecompton Constitution, and without consulting Mr. Cox or any one else, and Mr. Cox made the first speech against it in the House, without consultation or dictation from me. We fought it through on our own responsibility until Lecompton was dead; and when Lecompton was defeated, its friends got up the English bill to cover its retreat. The Hon. Robert J. Walker, then Governor of Kansas, advised Mr. Cox and myself to go for it, giving assurance that when presented to the people of Kansas, they would kill it, ten to one. Under these circumstances, some of our men felt it their duty to go for the bill. I did not think it a fair submission to the will of the people, and determined to fight it too. Mr. Cox said he had consulted the members of the Ohio delegation, that they all agreed to vote for it, and that under the circumstances he should vote with them. I told him I had no quarrel with those of my friends who differed with me honestly on that point, and afterwards I wrote letters in favor of the election of some of those who had voted for the English bill." The Judge concluded by urging his friends in the District to "nail the slander by re-electing Mr. Cox."

Had Judge Douglas yielded his resolution on this subject, and voted for the Conference bill, the territorial question would not have been mooted at the Charleston Convention, with so marked a personal application. His nomination would have been made without division. For a time, at least, secession would have been prevented, and war averted. The contests of that time were much embittered by the Dred Scott case. The decision of the Supreme Court in that case was calculated to divide and disintegrate the old parties and to build up the Republicans. Mr. Douglas and the Northern Democrats sustained that decision; but they could not venture to sustain the Lecompton Constitution, without inviting certain ruin to the party and defeating his personal aspirations. It was on this question that he

finally broke with the Southern Democracy. Henceforward they regarded him and his followers as little better than "Black Republicans."

It was under such circumstances of estrangement that the Democratic Convention met at Charleston, in the spring of 1860. Mr. Douglas, like Mr. Van Buren at Baltimore sixteen years before, had a decided majority of friends in the convention, but not a majority of two-thirds. The two-thirds rule was now the standing law of the party. It proved fatal to the hopes of Mr. Douglas. His friends carried the question as to the platform. Their resolutions re-affirmed the platform adopted by the party convention at Cincinnati in 1856. They added to it a declaration of readiness to acquiesce in the decisions of the Supreme Court. This platform was far from giving satisfaction to the South. Public sentiment in that quarter of the Union had taken a stride far beyond what was deemed satisfactory four years before. The Cincinnati platform referred to and indorsed by the Douglas, or Northern majority, merely declared that Congress had no power under the Constitution to interfere with slavery in the states; and that all efforts of abolitionists or others to induce Congress to interfere with slavery, or to take incipient steps in relation thereto, were calculated to lead to the most dangerous and alarming consequences. The second Resolution at Cincinnati pledged fidelity to the compromise measures of 1850; "and especially the act for reclaiming fugitives from service."

The Northern delegates could not be induced to recede from the position thus taken. Those of the South, on the other hand, insisted on the following declaration of principles:

"*Resolved*, That the Democracy of the United States hold these cardinal principles on the subject of slavery in the territories. First, That Congress has no power to abolish slavery in the territories. Second, That the Territorial Legislature has no power to abolish slavery in any territory, nor to prohibit the introduction of slaves therein, nor any power to exclude slavery therefrom, nor any power to destroy or impair the right of property in slaves by any legislation whatever."

The author attended that convention and heard the argument upon which the distraction ensued. The most conspicuous orator of the South, William L. Yancy, advocated the constitutional right to carry slavery into the territories, which he held to be the common property of all the states; and as slaves were property, that it would be equivalent to the destruction of that property to refuse it the constitutional ægis. Other able men in that convention seconded this splendid effort of the Southern Demosthenes.

He was answered by George E. Pugh, then Senator from Ohio, a rare logician, and an excellent lawyer. The fame of this gifted orator's early efforts in Ohio before the Legislature, and as attorney-general of that state, was enhanced by the conspicuous ability with which he had enforced his views in the Federal Senate. Small in person, keen of eye, with a voice

full of music, over which he had rare command, he conquered as much by his logical persuasion and defiant manner as by his fervent eloquence. The writer first saw him in Cincinnati, where he was associated with him in the practice of the law as early as 1847. Mr. Pugh had then just returned from the Mexican War, in which, as he said, he had gained no other laurels than those which belonged to the soldier who had gallanted mules up the Rio Grande to Cammargo.

Next to him came William A. Richardson, of Illinois, who was also in the Charleston Convention, and next to him was Henry B. Payne, the recently-elected Senator from Ohio, as a champion of Judge Douglas and his views of sovereignty. He made a strong impression at Charleston, and endeavored to reconcile the party with a view to avert disunion and war. The history of that convention is public property. It tells how they divided; how Caleb Cushing, the elegant casuist, ruled upon certain questions as to the casting of the vote of the states either individually or by unit; how a portion of them nominated Douglas, and Fitzpatrick of Alabama; and how another portion, representing the South, nominated John C. Breckenridge, of Kentucky, and Joseph Lane, of Oregon. These are facts well known.

When the firm determination of the Douglas majority in the Charleston Convention to adhere to their platform became manifest, the delegates from seven of the Southern States withdrew from the convention; and soon after an adjournment to Baltimore was agreed upon. The anti-Douglas wing agreed to meet at Richmond, in Virginia. The Baltimore Convention, composed mainly of Northern men, nominated Stephen A. Douglas for President, and Herschel V. Johnson, of Georgia, for Vice-President. The Richmond Convention nominated John C. Breckenridge, of Kentucky, for President, and Joseph Lane, of Oregon, for Vice-President.

Another Baltimore Convention nominated John Bell, of Tennessee, for President, and Edward Everett, of Massachusetts, for Vice-President. They styled themselves the "Constitutional Union" party; but consisted only of the remnants of the Whigs and "Americans."

The Republicans met in convention at Chicago, and nominated Abraham Lincoln for President, and Hannibal Hamlin, of Maine, for Vice-President.

This quadrilateral struggle for power marked the beginning of an eventful era in the history of the country. It resulted in the destruction of the chief basis of the old parties — slavery. The emancipated slaves came next in order. The question as to their status has passed away, and questions of finance, commerce, and honest administration alone absorb the public interest.

The total popular vote cast in 1860 was 4,676,853, of which Mr. Lincoln received 1,866,352; Mr. Douglas received 1,375,157; Mr. Breckenridge received 845,763; and Mr. Bell received 589,581. The total electoral vote was 303; of which Mr. Lincoln received 180; Mr. Breckenridge

received 72; Mr. Bell 39, and Mr. Douglas 12. It thus appears that Mr. Douglas, whose popular vote was nearly equal to the combined votes given to Messrs. Breckenridge and Bell, received just one-sixth of the electoral votes of Mr. Breckenridge, and less than a third of those given to Mr. Bell.

Mr. Lincoln received the electoral votes of all the free states, except three of New Jersey's seven votes, which were given to Mr. Bell. Mr. Breckenridge received the electoral votes of twelve of the sixteen slave-holding states. Three of them, Kentucky, Tennessee, and Virginia, voted for Mr. Bell; and Missouri voted for Mr. Douglas.

The contest in these conventions was preliminary to that of 1860. It turned upon the administration of James Buchanan and its defiance by Stephen A. Douglas. As that administration was signalized by the unsuccessful attempt to bring Kansas into the Union under the Lecompton Constitution, and by unsuccessful attempts to enforce the fugitive-slave act, because of the action of Salmon P. Chase, Governor of Ohio, indorsed by the general sentiment of the Republican party of the North; so it became the shibboleth of the party cries of 1860. In addition, the contest was further embittered, if not energized, upon the question of slavery.

The election of Mr. Lincoln, which took place in November, 1860, not only settled the issues against the South, but against the friends and doctrine of Judge Douglas. Congress met in December following; then arose for desperate debate all the varied questions involving human servitude. It was to the composition of these questions that the good men of that time addressed themselves. That Congress was one of marked ability. The South, especially, was ably represented The hidden facts, the inner life, the scenes and incidents which never appear on public record, and seldom appear even in the newspaper, when they shall transpire will give to that Congress the graphic interest of a battle picture. Out of its discussions, devices, and seditions arose the bloody spectre of war! It is the aim of the writer to illustrate some of the incidents and scenes of that period. There is much of interest as yet unwritten clinging to the actors in that drama — a drama whose last act had its tragical *dénouement* in the assassination of the kind, and good, and great Chief Magistrate of a newly-resurrected nation.

CHAPTER IV.

THE THIRTY-SIXTH CONGRESS — ITS CHARACTERISTICS, OPINIONS, AND VOTES — CONGRESSIONAL ACTION LEADING TO DISUNION — THE SENATE LEADERS — EFFORTS TO STAY SECESSION — EXTREMISTS DEFEAT THE COMPROMISE — CRITTENDEN'S LAST APPEAL — JEFFERSON DAVIS NOT ANXIOUS TO SECEDE — THE EXTREMISTS IN THE HOUSE — THE UNION PHALANX — CLEMENT L. VALLANDIGHAM.

IT is a common practice, since the great success of the Federal arms in putting down the insurgent states, to look upon the "Lost Cause" as having been altogether in the wrong; but unless there was great and general provocation to revolt, no such harmonious action in favor of secession could have been taken by the Southern States. It will not be forgotten by those who participated in the discussions of the Thirty-sixth Congress which preceded and presaged the war, that great attempts were then made by eminent statesmen to stay the progress of secession. Nor were these attempts confined to the Senate and House. They were made in "Peace Conventions," and in other bodies, which had great influence with business boards and state legislatures. Those who thus acted must have had hopeful reason for their attempts to reconcile the sections. The faults were not all on one side. The greatest grievance of the South was not, perhaps, as openly expressed as it might have been. The moral sense of mankind did not sustain the institution of slavery. The breaches of the Constitution in respect to the fugitive-slave law had been frequent and aggravating. That law had been maintained by the decision of the Supreme Court. Its violation was a pregnant cause of complaint. On constitutional grounds that law should have been sustained. The action of certain states of the North in obstructing its execution, notably in Wisconsin and Ohio, was defended in and out of Congress on moral, constitutional, and legal grounds. Even such eminent men as Salmon P. Chase, then Governor of Ohio, when the famous Oberlin case of Plumb, Peck, *et al.* was before the state court upon the writ of *habeas corpus*, did not hesitate to affirm that personal liberty

was of greater moment than the Constitution; that state rights were superior to Federal decrees; and that no mandate of the Federal government should be obeyed for the return of human beings to bondage.

It is well known that Mr. Chase advised Mr. Lincoln to let the seceding states go, rather than resort to armed coercion. Indeed, Mr. Chase had preached the state rights theory all his life in justification of state resistance to the enforcement of the fugitive-slave law. From the case of Jones *vs.* Van Zant, in 1842, to the celebrated Oberlin fugitive-slave rescue cases — *Ex parte* Langston and *Ex parte* Bushnell, in 1859, reported in the Ninth Ohio State Reports, the Ohio friends of Chase did not hesitate to express, in the most unqualified manner, their determination to nullify any Federal law or act of which they did not approve, in connection with the slavery question.

The cases of Langston and Bushnell were prosecuted on a writ of *habeas corpus*, by the State Attorney-General, C. P. Wolcott, under the direction of Governor Chase, for the release of those parties who had been convicted under the Federal statute, and in a Federal court, for violating the fugitive-slave law. On that occasion Governor Chase openly declared that he would sustain by force, if necessary, the decision of the Supreme Court of Ohio against the decision of the Supreme Court of the United States, even if it should result in a collision between the state and the general government. Not at any time in South Carolina, among the most ardent of the Calhoun school, was "nullification" more rife or aggressive than among the Ohio abolitionists. What cared either of these factionists for argument. They believed they were right; and if the Constitution disagreed with their theories, the Constitution must go — not their theories.

The territorial question, already referred to, had no less magnitude in the minds of the Southern people. That grievance took the form of a complaint that the Constitution was violated by the popular sovereignty, in declaring against slavery in organic laws for the territories, preliminary to their admission as states. When the Thirty-sixth Congress assembled, the members who stood between the factional sections, under the leadership of Judge Douglas, George E. Pugh, Senator Stewart, of Michigan, and others in the Senate, and of William A. Richardson, Thomas L. Harris, and others in the House, found themselves in a small minority. They were between the two fires of implacable opponents. In attempting to emulate the Christian philosophy of reconciling enmities, many of these peacemakers found themselves driven from their party associations; and others were quick to respond to the allurements of the vigorous party which was then approaching power. Whatever justification there may have been for the complaints of the Southern statesmen and states against the mal-administration of Federal laws by Northern people and states, there was no such grievance as would justify secession and the dispartment of the country. There was no difference that would justify either secession or revolution. No revolutions, according to

Sir James Macintosh, are justifiable, however well grounded upon grievances, without a reasonable probability of a successful termination. True, there was in that Congress an exaltation on the part of Southern men which led them to hope, even before Sumpter was fired upon, that the separation which they sought would be accomplished. Had they, even *a priori*, considered the mechanical forces of the North which are now so manifest in the results of the war, they might well have halted upon the dogma of Sir James Macintosh. But among the many fine traits of Southern men was that impetuosity and ardor of sentiment and heart which does not look to consequences when there is conviction in a justifiable cause. In the light of historical philosophy, an unbiased mind can apprehend what a tremendous hold the mere abstract doctrine of secession had upon these men, who anticipated a still larger curtailment of their constitutional rights. When it is remembered that there were real grounds for this apprehension, and when it was argued with so much logic and brilliancy that the rights of the states could be preserved only in a new confederacy, it is not marvelous that the call for secession fired the Southern heart.

When the time for final action came, the movements in favor of secession were made with great formality and solemnity. Ordinances came with all the precision and regularity of legislative order. States withdrew in the presence of excited and awe-struck audiences, after the most dramatic and apparently authorized sanction. The great body of the oratory of that time came from such men as Benjamin, Davis, Curry, Lamar, Pugh of Alabama, Garnet, and Bocock. It developed all the graces of eloquence. Fair women from the galleries, warm with Southern blood, gave applause more precious than coronets of gold and jewels to the oratory of their impassioned champions. As one by one the states became unrepresented, not a word was heard, except, perhaps, in debate, of the abstract right to secede. There seemed to be a tacit acknowledgment that secession at present was the best course. No attempt was made to arrest any one. Prominent Republicans like Lieutenant-Governor Stanton, of Ohio,— not to mention his namesake, the Secretary of War,—Mr. Greeley, and Mr. Chase, abetted the movement of secession by opposing any constraint upon the departing sisters. These facts, forerunners of the mighty conflict, seem now inexplicable to many persons, because it is forgotten that from December, 1860, until March, 1861, there was hope of reconciliation. Douglas and Crittenden were still sanguine when they telegraphed to Georgia that the rights of the South and of every state and section would be protected in the Union.

The first efforts at compromise were by no means confined to the Democratic Senators and members. Governor Corwin, Charles Francis Adams, Edward Joy Morris, and others in the House; Senators Cameron, Baker, Dixon, Foster, Collamer, and others in the Senate, were, at the beginning of the session, and for some time afterwards, regarded as not indifferent to a

compromise which would at least retain the border states, if it did not stop the movement of the Gulf States. The most experienced and able Southern men believed that the step they were about to take would be bloodless; that their array in strength and mien of resistance would prevent coercion by arms. Some of them looked upon secession as a mere temporary alienation. Even so late as the secession of Texas, Judge Reagan, one of its Representatives, after he had left his seat in Congress, took pains to inform the author that he thought the South would be out only for a season. When the excitement subsided, and especially if any guarantees were given for the protection of their rights, he believed the states would return. In this, how signally ability and experience failed to discern the future! Mankind generally reckon the greatness of men by success. If this be the touchstone, the vaunted statesmanship of the South vanishes. But what a company of conspicuous men answered to the roll-call on the 6th of December, 1860, in the Thirty-sixth Congress.

At the head of the Senate stands John C. Breckenridge, offering his name, so proudly connected with the history of Kentucky, to the task of dismemberment. He was among the last to leave his home to take the sword for the South. He was, after the war, a fugitive upon English soil, pleading with his stricken confederates to do the best by submission to Federal rule. His health had been impaired by his exertions in the field. The writer saw him sometime before his decease. He was sojourning at the Thousand Isles, in New-York. His spirit was peaceful, calm, and exalted,— fit companion of a form upon which God had set His seal. He lives not only in the spirit of those whose admiration he engrossed, but in his sons, one of whom is in the present Congress from Arkansas.

Another son of that great commonwealth is there, John J. Crittenden. How nobly he stands for the Union! Mr. Crittenden was not demonstrative, unless, perhaps, among intimate friends or in the family circle. He was a man of great simplicity of character and nobility of soul. He had vast experience in public affairs. He possessed the integrity and fervor of his Welsh and Huguenot descent. He, of all the men of his day, had the best right to be a Confederate. He was born in the old Confederacy, seven days before the Constitution of this country was adopted in general convention. He was a sound scholar. His eloquence was Ciceronian. His legal intellect was profound. His patriotism was boundless and impulsive. In 1811 and 1812, when he was a member of the Kentucky Legislature, he received martial honor from Governor Shelby, who had no toleration for Great Britain. Young Crittenden was his aid-de-camp in the war of 1812–'14. He took part in the battle of the Thames. From that time onward he must be judged as a Kentuckian who subordinated the most intense state pride to an unquenchable love of the whole Union. He did not appear in any Federal relation until he was elected to the United States Senate in 1817. More or

less associated with such men as Webster and Clay, and all the public men connected with the first half century of the country, his is a history that belongs to the conservative element. But never, until sectionalism raised its front in warlike menace, did his great abilities shine forth with their full lustre of rhetoric and fire of will.

In the Senate of 1860–'61, Mr. Crittenden gave voice to the Union sentiment of the country. He not only shared the sentiments of such statesmen as John A. Dix, Edward Everett, Elisha Whittlesey, Robert C. Winthrop, and others, but he represented all those patriotic men who united to adopt the Crittenden compromise on the slavery question. These resolutions were in the form of a series of constitutional amendments. They were inspired by the alarming character of the controversy between the sections. They proposed the restoration of the Missouri Compromise, and the extension of the compromise line throughout the territories of the United States to the eastern border of California. Slavery was to be recognized in all the territories south of that line, and to be prohibited in all territories north of it. When territories north or south of the line should be formed into states, they should then be at liberty to exclude or admit slavery as they pleased. In either case, there would be no objection to their admission to the Union. This was the mode proposed by the Crittenden compromise, by which to settle the great controversy. Incidentally, he proposed to amend the Constitution so as to declare that Congress should have no power to abolish slavery in the District of Columbia while slavery existed in Maryland and Virginia. And, inasmuch as the fugitive-slave law was constitutional, he desired a declaration for its faithful execution. He proposed amendments to that end. They seem trifling now. They had reference to the fees of the Circuit Court commissioners, and to the *posse comitatus* in cases of resistance to the United States marshals in making arrests under that law. He also intended, if possible, to make the Constitution unalterable in certain matters. This, in a country subject to the laws of progress, was in flagrant violation of that which was an irrevocable law of advancement! To this inconsistency the love of the Union led that best of patriots. This shows how earnest were the men who sought to avoid the "Irrepressible Conflict."

In the Senate of the United States, on the 18th of December, 1860, Mr. Crittenden spoke to these propositions. He regarded the Constitution as the very essence of life to the Union. He lifted himself to the great occasion in a spirit of conciliation. He did not stop to picture the direful consequences of a failure to settle the question by a division upon the line of the Missouri Compromise. We had lived prosperously and peacefully upon that line. Any sacrifice which could be made, North or South, to maintain that condition, he regarded glorious as well as just. The Union was permanent. It had been necessary after the Revolution to yield many prejudices, and much state policy, in order to secure independence with Union. He recognized

the hand of Providence in helping our ancestors in that trying era. He quoted from Washington, who said: "But for Providence, we could not have accomplished this thing." He spoke as if the muse of history were listening to him. The writer well remembers that speech, and the excessive emotion which it produced. The peroration still rings as a part of the memory of that critical time:

"Sir, I wish to God it was in my power to preserve this Union by recognizing and agreeing to give up every conscientious and other opinion. [Then, turning to the Senators from the South.] Are you bent on revolution, bent on disunion? God forbid it! I cannot believe that such madness possesses the American people. I can speak with confidence only of my own state. Old Kentucky will be satisfied with it. She will stand by the Union and die by the Union, if this satisfaction be given! Nothing shall seduce her. The clamor of no revolution, the seductions or temptations of no revolution, will tempt her to move one step. Disunion and separation would destroy our greatness. Once disunited, we are no longer great. The nations of the earth, who have looked upon you as a formidable power rising to untold and immeasurable greatness in the future, will scoff at you. Your flag, that now claims the respect of the world — what will become of it? It is gone, and with it the protection of American citizens and property, to say nothing of the national honor which it displayed to all the world. The protection of your rights, the protection of property abroad is gone with the flag, and we are here to conjure and contrive different flags for our different republics, according to the feverish fancies of revolutionary patriots. No, sir; I want to follow no such flag. I do not despair of the republic. I cannot despond. I cannot but believe that we will find some means of reconciling and adjusting the rights of all parties by concession, if necessary, so as to preserve and give more stability to the country and to these institutions."

The failure of the compromise measures is well known. In his farewell address to the Senate in March, 1861, Mr. Crittenden said with genuine humility, that he had not risen with any vain ambition or purpose to play the orator. He seemed to feel that we were a failing state, and that no compromise would be acceptable. Scarcely ever has there been such an appeal as he then made to history, to the present interests, and the future prosperity and glory of the country. He returned to Kentucky, but not to retire to the ease of his home. He came to the next Congress in the first years of the war — that in which the writer served with him. In July, at the called session of 1861, Stephen A. Douglas, his greatest competitor, died. John J. Crittenden was the first man to pronounce his eulogy. The writer, in following,— and feeling that there was but one left of all the great men of old who had been with Douglas in the Senate,— said:

"Who is left to take the place of Stephen A. Douglas? Alas, he has no

successor! His eclipse is painfully palpable, since it makes more obscure the path by which our alienated brethren may return. Many Union men, friends of Douglas, in the South heard of his death as the death-knell of their hope. Who can take his place? The great men of 1850 who were his mates in the Senate are gone, we trust, to that better union above, where there are no distracting counsels,— all — all gone! All? No, thank Heaven! Kentucky still spares to us one of kindred patriotism, fashioned in the better mould of an earlier day, the distinguished statesman who has just spoken, Mr. Crittenden, whose praise of Douglas, living, I love to quote, and whose praise of Douglas, dead, to which we have just listened, *laudari a viro laudato*, is praise indeed. Crittenden still stands here, lifting on high his whitened head, like a pharos in the sea, to guide our storm-tossed and shattered vessel to its haven of rest. His feet tread closely upon the retreating steps of our statesman West. In the order of nature we cannot have him long. Already his hand is outstretched into the other world to grasp the hand of Douglas! While he is spared to us let us heed his warning; let us learn from his lips the lessons of moderation and loyalty of the elder days, and do our best, and do it nobly and fearlessly, for our beloved Republic." Too real, alas! was this shadow of the coming events. Worn out by the arduous labors of the Thirty-seventh Congress, the great Crittenden went home to his well-beloved state, never to return. He died in July, 1863, — this great man died, while the shock of embattled armies was rocking the foundations of the Union. Who can tell how much of its strength in that day was due to John J. Crittenden?

In that Congress, foremost in influence for peace or war, for Union or Disunion, is Jefferson Davis; how then unlike that Davis who in Maine but a few years ago, had spoken burning words for the perpetuity of the Union. He had fought gallantly in Mexico for its extension and honor. Whatever of prejudice his name may have since aroused has been incident to recalling the memories of a beaten cause. At that Congress he was far more potential in directing the fateful genius of Southern statesmanship than any other man in the Senate. His own memoirs have been published. There his character is analyzed and his motives questioned with pitiless and torturing inquisition; still the great body of his countrymen South will cherish his memory, despite all adverse criticism. Whether he ever renounced his secession doctrines, while acting as the Chieftain of the Confederacy, has not been proven. It has been surmised and inferred. The same presiding care which shielded him from a trial for treason, and gave him peaceful retiracy in a southern home, seems still to hover over his old age. Remembering his personal courtesy, his urbane and dignified manners, his silvery oratory, his undaunted courage as a soldier and honesty as a man, the historian of this eventful epoch — in which madness ruled in the most sedate counsels — cannot fail to recall much to the credit of this leader of the Southern people. He may

not have exercised the wisdom of some who acquiesced promptly and gracefully in the inevitable. Yet with many this trait of enduring consistency is a virtue. But it must be said that he was not forward in secession. His state was not among the foremost to secede. She waited until the 9th of January, 1861, before passing her ordinance, and her Senators lingered until the 21st before they withdrew. It is generally credited among those who were familiar with Mr. Davis' inclinations, that, even after the ordinance passed, he was anxious to remain. There is indubitable evidence that while in the Committee of Thirteen, he was willing to accept the compromise of Mr. Crittenden, and recede from secession.— This Committee and a House Committee of Thirty-three members were then considering "the state of the Union."— The compromise failed; because, as Senator Hale said, on the 18th of December, 1860, the day it was introduced, it was determined that the controversy should not be settled in Congress. When it failed, the hero of Buena Vista became the Confederate leader. Much as he is underrated by some Southern men who opposed him during the war, he was fitted to be the leader of just such a revolt. Every revolution has a fabulous or actual hero conformable to the local situation, manners, and character of the people who rise. To a rustic people like the Swiss, William Tell, with his cross-bow and the apple; to an aspiring race like the Americans, Washington, with his sword and the law, are, as Lamartine once said, the symbols standing erect at the cradles of these two distinct Liberties! Jefferson Davis, haughty, self-willed, and persistent, full of martial ardor and defiant eloquence, was the symbol, both in his character and in his situation, of the proud, impulsive, but suppressed ardors and hopes of the Southern mind. His colleague in the Senate, Albert G. Brown, was still more reluctant to sever his connection. He was, before the Charleston Convention, if not openly, at least covertly a co-worker with Douglas and others in striving to preserve the unity of the Democratic party and the country. Governor Brown was a member of the Confederate Congress. He was outspoken in his criticism of the conduct of the Confederate authorities. He had not much heart or faith in the secession movement. He was overshadowed as a Senator by Mr. Davis; but he was far more approachable, in his relations towards other members. Time has mellowed many of the men who then, to an angry North, seemed so intensely vindictive. Governor Brown, since the war, frequently acted with those who sought reconciliation, and sometimes adversely to his own party.

But by far the most truculent Senator from the South was Louis T. Wigfall, of Texas. He was a man of scarred face and fierce aspect, but with rare gifts of oratory. He was bitter at times, as well as classical, in his denunciations. Yet much of his strong talk and eccentric conduct was more than compensated for by great and generous qualities of heart. Many years after the war he settled in Baltimore, but he did not long survive his removal

north. Next to him in truculency, though not in sociality, was Alfred Iverson, of Georgia. He was outspoken and bold for the sudden disruption of the Union. Perhaps no other Senator would have used such significant language as he did in the fierce debate which took place on Dec. 3, 1860. He charged that the secession of Texas was clogged by the governor of that state — Houston — and said, with impetuous and vindictive utterance, that if that official did not yield to public sentiment, "some Texan Brutus will arise to rid his country of the hoary-headed incubus." Other Senators were truculent; but most of those from the South were sad at the terrible consequences of separation. Not so Senator Iverson. He echoed the speech of the Texan Senator, Wigfall: "Seize the forts and cry, 'To your tents, O Israel.'" The colleague of the latter, Robert Toombs, was far more amenable to reason than his rough manner and boisterous logic indicated. He was a man of commanding person, reminding one of Mirabeau. Bating his broad Africanese dialect, he was fiercely eloquent in the epigrammatic force of his expression. The Virginia Senators ranked among the foremost in the movement. Much was expected from the moderation of Robert M. T. Hunter, but he did little to stay the revolution. Little was expected of James M. Mason, and he did less. The former was a calm, phlegmatic reasoner; the latter had a defiant and autocratic demeanor, that conciliated no one. Both were imbued with the ideas of the ultra Calhoun school. Louisiana was represented in the Senate by John Slidell and Judah P. Benjamin. Mr. Slidell was a man of social prominence and wealth. He was as cunning in his methods as he was inveterate in his prejudices. He combined the fox with some other strange elements. The writer heard his savage and sneering threat to destroy the commerce of the North by privateers. As he delivered it, his manner was that of Mephistopheles, in one of his humors over some choice anticipated deviltry. But who shall picture the bland, plausible, and silver-tongued Judah P. Benjamin? His farewell speech was as full of historic reference as of musical and regretful cadences. As he bade adieu to the old Union, he drew from the spectators many plaudits for his rhetoric which he could not evoke for his logic. Next to him in the suavity of his manner, if not in the cogency of his speech, was Clement C. Clay, of Alabama. He voluntarily surrendered after the war, and is now dead. He had a graceful bearing; and although never very hale in health, was ever ready to assume his *rôle* in the daring drama. The other Senator from Alabama, Benjamin Fitzpatrick, was a model of senatorial frankness. His name is seldom mentioned since the war. He was nominated in 1860 on the ticket with Douglas at Baltimore. But for the incessant importunity, if not threats, of Southern men who thronged his room to shake his determination, he would have stood by the Northern Democracy in its struggle.

The other Senators from the South did not then play very prominent

parts on the congressional stage. Thomas L. Clingman, of North Carolina, was expected to fight the Union battle, but he failed at the critical time. He had large experience in congressional life, but, just elevated to the Senate, he rather pursued what he believed was the popular doctrine. The Senators from Delaware, the elder Bayard and Willard Saulsbury, were able men. The former was a logical thinker, accomplished in constitutional law. He was a believer in the unforced association of the states. He retired from his place disgusted with that public opinion which would not allow free speech as a means to restrain usurpation, and conclude the war. He was succeeded by his son, than whom no abler Senator has appeared to contend for public or personal honesty and liberty. The Senators from South Carolina did not appear at the last session of that Congress. Although that state did not pass her ordinance until the 17th of December, her Senators resigned on the preceding 10th. Alfred O. P. Nicholson, Senator from Tennessee, was no speaker; he did not make his mark; he had been, however, a successful editor. The other Senator, Andrew Johnson, made his mark. Although he had fought the battle in Tennessee for Breckenridge against both Bell and Douglas, he came to the closing session as if he were *novus homo*. He had great will and tenacity of purpose; his efforts were vigorous and effective in repelling, from a Southern standpoint, the aggressive debate of the secessionists of the Senate. His elocution was more forcible than fine — more discursive than elegant. He hammered away with stalwart strength upon his thought, until he brought it into shape. He rarely failed to produce the impression he intended. It was seen, then, that he was destined to act a great part in the future. Douglas frequently expressed his regret that Mr. Johnson had not made his blows tell earlier in the hot conflict of 1860, when Crittenden and himself were championing the interests of all sections, and striving to avert in time the calamities which were pressed by extremists, North and South. The Senators from Maryland, as from Kentucky, like their states, occupied middle ground, and were ever ready and eager to mediate. The same cannot be said for Arkansas. One of her Senators, Mr. Sebastian, was reluctant to follow South Carolina. He did not follow his own state, yet he would not go against her. He stayed at home quietly during the war. He was expelled from the Senate. He died in 1865. The expulsion was revoked, and his full salary up to that time was paid to his family. The other Senator from Arkansas, Mr. Johnson, was nothing loath to secede. He offered himself, after the war, to the authorities, in a characteristic letter, frank and manly. Of the Missouri Senators, Mr. Polk went South, where his friends did not expect him to go; and Mr. Green, unexpectedly, remained North in the seclusion of private life. The former had been governor of his state, but was not otherwise greatly distinguished. The latter was a worthy foeman of Douglas in the fierce struggle on the Lecompton question.

Of the Northern Senators who were supposed to be most nearly allied with the South, were William M. Gwin, of California, Joseph Lane, of Oregon, and Jesse D. Bright, of Indiana. The Senators from Florida were never regarded, however they seemed, as favorable to the secession movement; though the Representative from Florida, George S. Hawkins, was the first to urge the withdrawal of his state as a reason for his indifference to compromise, and his refusal to serve on the committee. Stephen R. Mallory and David L. Yulee were later somewhat conspicuous in the Confederate movement; but neither of them exerted any considerable influence at Washington in the direction of disunion during the winter of 1860–'61.

The Republican Senators of the Thirty-sixth Congress who were most noted in the parliamentary conflict, were Hamlin, Fessenden, Hale, Clark, Collamer, Wilson, Sumner, Chandler, Seward, Cameron, Wade, Trumbull, Doolittle, and Baker — a galaxy of ability. Against these, as against the other extremists, stood Douglas, Crittenden, Johnson, Pugh, Latham, Fitch, Thompson, Rice, and Powell. How these temperate tribunes labored to save the Nation, only those present at their conferences know. The author was often surprised at the speeches of Douglas and Pugh especially, designed to mitigate the effect of personal liberty bills, to nullify the fugitive-slave law, and prevent other infractions of the Constitution. They sought to remove from the Southern mind the hatred of the North thus engendered. Few in number, these men did all that they could for peace, even to the last Sabbath evening before the adjournment, when Mr. Crittenden hushed the Senate by the glorious beauty of his last earnest, though ineffectual appeal for conciliation.

In the House, the elements of disunion might be discerned like geological strata in sections and states. Maryland furnished no member who was a secessionist *per se;* although of the delegation Messrs. Kunkel and Hughes seemed to be most sympathetic with the South. The same may be said of Kentucky; but afterwards Burnett and Symmes became confederate Senators. They were both eager for compromise during the winter of 1860, and Burnett even returned to the next Congress in 1861. He had one distinguished mark of attention after the war. He was placed under bonds for treason. Virginia had Garnett, De Jarnette, and Edmundson. These men were disposed toward a Southern Confederacy. Bocock, Smith, Jenkins, Leake, and others were determined to go with the state. They did not labor to foster compromise. Pryor was at first with, and at last against, the Union. He was not as eager as he seemed for a separate Confederacy. His career is known, with its vicissitudes. The extremes he once advocated seem now to be as alien to his cautious and heroic nature, as moderation would have been in his earlier ardent years, when he sought no exemption from any attack. Jenkins went out with his state as might have been expected. He fought bravely and died at the head of his cavalry. Rich in a patrimony of

splendid farms along the Ohio and Kanawha, surrounded by friends who elected him to Congress when barely of constitutional age, just married to a daughter of the diplomatist Bowlin, of Paraguayan memory, and coming from that part of Virginia where secession was the exception, his fate seemed to be as unnatural as it is sad. Ex-Governor Smith, of Virginia, was perhaps the most remarkable man in the delegation. He was a fluent debater, and ready at repartee. He assisted the writer, during the war, while governor of the state, in the special exchange of prisoners. At one time, the Union prisoners could obtain little or no aid from Congress or the Executive, and scarcely a vote on resolutions urging exchange, till too late to save the lives of thousands. Prompt and generous aid came from this inveterate insurgent; which President Lincoln, when informed of it, reciprocated with the remark that he "would not be outdone by 'Extra Billy' in extra kindness." The man among Virginians who labored most for the Union, was John S. Millson, of Norfolk. Boteler began the same work by moving for a Committee of Thirty-three; but to Millson, more than to any one, we owe the vote of Virginia in favor of the Union given in February, 1861. The author, at his request, franked many thousands of his unanswerable speech to Virginians. It was complained, about that time, that the census had been copied, to flood that state with Millson's speech, and it was true. In this work no one gave to General Millson more effective aid than Sherrard Clemens, of Wheeling, whose eloquence did great execution, whose zeal never flagged, and whose Unionism never wavered. Perhaps one of the saddest of the events of those *dies iræ*, was the duel, or the result of a duel, which Mr. Clemens had with Mr. O. Jennings Wise, of Virginia. It left him shattered by a terrible wound; but never repentant of the stand he assumed at this time when the good men paused and some of the best went awry.

What of the border states, Missouri, Kentucky, and, it may be added, Tennessee? Tennessee was led in the House by Nelson and Maynard, both Union devotees. Nelson appeared subsequently as the attorney of Andrew Johnson on the impeachment case. He was a lame man, of fine elocution, much given to poetic imagery, but not of a strictly legal mind. Mr. Maynard was a tall man of peculiar mould, with long, dark, straight hair, of Indian features and sallow complexion,—a notable physiognomy. He was a man of prudence and culture, a slow thinker, but a sound one. It seemed strange for a Massachusetts man to have such a magnetic hold upon the people of East Tennessee. The Union sentiment of Missouri was championed by John S. Phelps. He was chairman of the Ways and Means Committee of the Thirty-sixth Congress. He has, since the war, been governor of Missouri. He was a rapid speaker and thinker, but of good conservative sense. The Union sentiment of Kentucky was defended vigorously in the House by Mr. Mallory, a *bon vivant* of great good humor, and much facility in debate.

Excepting Joshua Hill, of Georgia, Houston and Cobb, of Alabama, Gilmer and Vance, of North Carolina, Bouligny, of Louisiana, Hamilton, of Texas, and such men as Branch, of North Carolina, Reuben Davis, of Mississippi, Boyce, of South Carolina, Rust, of Arkansas, and Taylor, of Louisiana, who were distrustful of secession as the cure for Southern ills, though not pronounced in their sentiments, excepting these and a few others not so conspicuous, the whole array of Southern pluck and talent, led by Miles, Gartrell, Pugh of Alabama, Bocock, Garnett, Smith, Pryor, Crawford, Curry, Hindman, McRae, Barksdale, Lamar, Wright, and Keitt — nearly all, except Pugh and Smith, young men — was thrown in favor of precipitate action, with little attempt to compromise. Even such men as Winslow, Smith, and Branch, of North Carolina, and Reagan, of Texas, elected as conservatives against the disunion sentiments of their districts, yielded before that chivalric band. The yielding was enforced by a tremendous pressure brought to bear from their homes, which was inspired by hopes of independence. The wives, daughters, and other female connections of Southern members were in the galleries constantly. They cheered, by their presence and smiles, the fervid efforts of the secession orators. For impetuous debate, there was Lamar, of Mississippi, scholarly and defiant; for logical humor, Governor McRae, of the same state, successor to General Quitman, one of the happiest of speakers, an original slave-trade secessionist, though educated in Ohio; for parliamentary skirmishing, there was Bocock, of Virginia; for vituperative philippic, there was Roger A. Pryor; for courteous and beautiful elocution, Alexander R. Boteler, of Harper's Ferry; for swaggering bravado, toned with an elegant phraseology, there was the vain and clever Keitt; for smooth and trenchant dialectics, there was Porcher Miles, of Charleston, who earned his place in Congress by his care of the sick in the fever-stricken city of Norfolk in 1855; for statesmanlike and vigorous debate, there was Branch, of North Carolina; for broad wit and hearty blows, there was Gilmer, of North Carolina; for subtle ratiocination of the Calhoun pattern, there was Pugh, of Alabama, who had all the pith, without the artistic polish, of his colleague Curry; for offensive and vivacious readiness, there was Hindman, of Arkansas, who of these leaders became the most conspicuous in the war. Branch, Ruffin, Keitt, Jenkins, Barksdale, and Rust had important commands. All, except the latter, met that death of which they vaunted so much, rather than submit to the Federal authority. In looking over this roll, one cannot but regret that so much of genius, energy, and goodness has been lost to our land. Among the most eloquent of this remarkable body was Nelson, of Tennessee; the most eccentric and indomitable genius for politics, was Emerson Etheridge; and the clearest heads for political economy, metaphysical refinement, and historic research, were William W. Boyce and John S. Millson.

If we go to the Republican side of the House, we find Corwin, of Ohio,

incomparable for his fun, his pathos, and his soul-stirring eloquence; Charles Francis Adams, with no readiness as a speaker, but a profound thinker; Eli Thayer, of Massachusetts,— one of the children of Brown University, with all his vast motive power occasionally getting out of order; Morrill, of Vermont, whose skill in tariff calculations never flagged during the excitements of the war; Roscoe Conkling, with rare gifts of ready and pure elocution; John Hickman, of Pennsylvania, straightforward and dashing, with a scholar's taste hidden under the toga; Thaddeus Stevens, the Metternich of Republicanism; Galusha A. Grow, quick in the manual and saucy in bravado toward his opponents; Benjamin Stanton, Sherman, and Bingham, from Ohio. These last three were men of experience in legislation. They became leaders of a party which never succumbed until 1884. Benjamin Stanton died just after the war. John Sherman has made an indelible mark upon our financial policies, as Secretary of the Treasury, and as Senator. John A. Bingham, gifted with English eloquence, and full of impulsive ardor for Anglo-Saxon liberty, is now spending the autumn of his days as Minister to Japan. Schuyler Colfax was there, but not as presiding officer of the House or Senate. The temptations of the engrossing and speculative life which follow all great wars cast their eclipse over his fame. As the author pens these lines, the telegraph clicks the mournful message of his demise in a remote state. He arose, like Grow, to prominence by championing with much fluency and energy the pietistic humanitarianism of his party. Mr. Grow became the Speaker of the House; and was succeeded by Mr. Colfax. Mr. Grow still survives,— as a quiet Pennsylvanian, of business habits, with more care for railroads and coal than for politics or Cushing's Manual. His hair is whitening for the harvest, but his impetuosity of manner and energy of conviction are the same as when he had his personal rencontre with Keitt, of South Carolina.

Perhaps the most remarkable man in that Congress was Owen Lovejoy, of Illinois. His brother had been mobbed in Illinois, in the early days of the abolition excitement. This and other incidents, fully inspired him with a wild zealotry against slavery, or rather against slave-holders. He never feared to antagonize any of its adherents. He was, next to Joshua R. Giddings, the most aggressive and fully equipped of the anti-slavery orators. It seemed as if he cultivated an ignorance of parliamentary law, in order to say the most indecorous things. He had a rugged vehemence which, if not oratory, was taken for it by those who look more to manner than substance. These, with the affable Speaker, Pennington, made up the phalanx upon which the Southern cohort hurled itself in debate.

Let us recall the scene which took place at the author's desk between Keitt and Grow, the preceding Congress. It is after the hour of midnight. The passions of the time are incarnate in that Congress and at that hour. See the fierce clutch and glaring eye, and the struggle between these heady

champions! Now, after nearly three decades, the author sees trooping down the aisles of memory, as then there came trooping down the aisles of the House, the belligerent members, with Washburne, of Illinois, and Potter, of Wisconsin, leading the one extreme, and Barksdale and Lamar, of Mississippi, leading the other; then comes the *mêlée* — the struggle, the pale face of the Speaker calling to order, the sergeant-at-arms rushing into the area before the clerk's desk, with the mace as his symbol of authority. Its silver eagle moves up and down on the wave of passion and conflict. Then there is a dead hush of the hot heart, and the glare of defiance across the hall! As this scene is revivified, looking at it through the red storm of the war, there is epitomized all that has made that war bloody and desperate.

Then, too, there rise up the forms of those who were then accounted moderate and middle men, like Davis and Holman, of Indiana, McClernand and Logan, of Illinois, Mallory and Stevenson, of Kentucky, Pendleton and Vallandigham, of Ohio, Florence and Montgomery, of Pennsylvania, Sickles and Cochrane, of New-York. They stand like Douglas, Bigler, Latham, Pugh, Johnson, and Crittenden, in the Senate, as a breakwater against the contending tides.

From these scattered memories of this remarkable Congress, the reader may gather some idea of its force and energy, tact and eloquence, passion and prejudice.

Some of the great questions which arose were foreshadowed in the President's Message; for instance, in regard to the power to coerce a state. But there were other great national topics, among the most important of which were those concerning the acquisition of territory, and the government of territories; the effect of the decisions of the Supreme Court; the various amendments of the Constitution to prohibit Congress and the people from impairing the right of property in slaves; the fugitive-slave law; the right of transit in free states of persons with slaves; the nullifying acts of state legislatures; the abolition of slavery and the internal slave trade; changes by constitutional amendments in the executive office and veto power; the restoration of the equilibrium between the slave and free states; the voluntary division of slave states into two or more states; the policy of allowing to slave states alone, a vote on all questions of slavery, and making the amendments proposed unamendable; a grant to the states of power to appoint the Federal officers in their midst; the peaceable withdrawal of states from the Union and apportionment of the public debt; dual Senates and dual Executive; the organization at once of the remaining territories; the foreign slave trade; the acquisition of foreign territory by a vote of two-thirds; questions as to ordinances of secession, and their effect; the exclusion of Africans from ever becoming citizens; a constitutional convention;— these and many other questions were debated, and referred to the committees of Thirteen in the Senate and Thirty-three in the House.

These questions lay at the root of our future agonies of war and reconstruction. They were the result of anxious cogitation on the problems which threatened to divide the country. They remain upon the record to illustrate the variety and magnitude of the interests springing out of the institution of slavery, and the duplex character of our state and Federal governments. They were, for the last time, thrust into the legislative tribunal for tranquil solution, before the conflict in the forum of reason should be replaced by

——"the intestine shock
And furious close of civil butchery."

The public records show what results were reached by these committees, or rather how resultless were their labors. Mr. Corwin, representing a majority of the House committee, presented his resolutions and bills. Mr. Adams declined to recommend even his own propositions, inasmuch as he believed that the South would accept nothing that he might offer. Washburne, of Wisconsin, and Tappan, of New Hampshire, of the same committee, offered nothing by way of compromise. The conservative men, with Taylor, Phelps, Rust, Whitely, Winslow, Nelson, Hamilton, and others of the committee, wished to go further than Governor Corwin. They recommended the Crittenden proposition. The votes on the Corwin measures were strangely incongruous. The vote on the Crittenden proposition was well defined, but it is not so well understood.

From the frequency of inquiries since the war as to the vote on the Crittenden proposition, the people are even yet ignorant of the fact that the responsibility of its failure belongs to the Republicans. It may well be stated that all other propositions, whether of the Peace Convention, or the Border State project, or the measures of the committees, were comparatively of no moment; for the Crittenden proposition was the only one, if any, which could have arrested the struggle. It would have received a larger vote than any other. It would have had more effect in moderating the Southern excitement. It has been shown already that Davis, Toombs, and others of the Gulf States would have accepted it. The author talked with Mr. Crittenden frequently on this point. Not only did he confirm the public declarations of Douglas and Pugh, and the speech of Toombs himself, to this effect, but he said it was so understood in committee. At one time, while the committee was in session, Mr. Crittenden said: "Mr. Toombs, will this compromise, as a remedy for all wrongs and apprehensions, be acceptable to you?" Mr. Toombs with great warmth replied, "Not by a good deal; but my state will accept it, and I will follow my state."

It is not an open question, whether it was wise then to offer accommodations. It may not be profitable now to ask whether the thousands of old and young men whose bodies were maimed, or whose bones are decaying under the sod of the South, and the heavy load of public debt under which the peo-

ple sweated and toiled, had compensation in an established order, without negro slavery. Why discuss the long vexed but now settled question as to whether the blacks have been bettered by their precipitate freedom, passing, as so many did, from slavery through suffering to death or freedom? There is no longer any debate out of the reflection that the negroes might be exterminated. Since the negroes are a part of our social order, it is the part of all citizens to make them useful and intelligent factors in our civilization and advancement. There is no question left concerning them.

Much has transpired since that remarkable session of 1860–'61, to disenchant many of their Utopias, and to reveal many an error in the Federal treatment of communities and states. With the knowledge of that day, and amidst the fervors of the hour, what is the real question which history would regard as of the first importance at that time? It is this:—Could not this Union have been made permanent by a timely settlement, instead of being cemented by fraternal blood and military rule? By an equitable adjustment of the territory this was possible. The territories had then an area of 1,200,000 square miles. The Crittenden proposition would have given the North 900,000 of these square miles, and applied the Chicago doctrines to that area. It would have left the remaining fourth, substantially, to be carved out as free or slave states, at the option of the people when the territories were admitted as states. This proposition the radicals denounced. Notwithstanding the President-elect was then in a minority of a million of the popular vote, they were determined, as Mr. Chase wrote to Portsmouth, Ohio, from the Peace Convention, to use the power while they had it, and to prevent a settlement. It has been stated, in order to rid the Republicans of the odium of not averting the war when that was possible, that the Northern members tendered to the South the Crittenden Compromise, which the South rejected. This is untrue. It was tendered by Southern Senators and Northern Democrats to the Republicans. They, in conjunction with some half a dozen extremist Southern Senators, rejected it. It was voted upon but once in the House, when it received 80 votes against 113. These eighty votes were exclusively Democrats and Southern "Americans," like Gilmer, Vance, and others. Mr. Briggs, of New-York, was the only one not a Democrat who voted for it. He had been an old Whig and never a Republican. The Republican roll, beginning with Adams and ending with Woodruff, was a unit against it. Intermingled with them was one Southern extremist, General Hindman, who desired no settlement. There were many Southern men who did not vote, believing that unless the Republicans, who were just acceding to power, favored it, its adoption would be a delusion. The plan adopted by the Republican Senators to defeat it, was by amendment and postponement. On the 14th and 15th of January, 1861, they cast all their votes against its being taken up; and on the 16th, when it came up, Mr. Clark, of New Hampshire, moved to strike it out and insert something which he knew

would neither be successful nor acceptable. The vote on Clark's amendment was 25 to 23; every "aye" being a Republican vote, and every "no," except Kennedy and Crittenden ("Americans"), being a Democrat vote. On this occasion, six Southern Senators, including Benjamin and Wigfall, did not vote. They could have defeated Mr. Clark's motion. In reference to this vote we have the testimony of Andrew Johnson, in a speech on the expulsion of Senator Bright, Jan. 31, 1862, to this effect:

"I sat right behind Mr. Benjamin, and I am not sure that my worthy friend (Mr. Latham) was not close by when he refused to vote; and I said to him, 'Mr. Benjamin, why do you not vote? Why not save this proposition, and see if we cannot bring the country to it?' He gave me rather an abrupt answer, and said he would control his own actions without consulting me or anybody else. Said I: 'Vote, and show yourself an honest man.' As soon as the vote was taken, he and others telegraphed South, 'We cannot get any compromise.'"

Doubtless the six Senators had the same motive for their reticence in voting and readiness in telegraphing. But their conduct did not excuse the body of the Republicans. Now, since the collapse of the Confederacy, many of them are anxious to be excused. These are facts of history. They are not written to justify or condemn. When the result of the vote was announced, universal gloom prevailed. The people favored the compromise. Petitions signed by thousands of citizens were showered upon Congress, for the passage of the compromise. Had it received a majority only, they would have rallied and sustained those who desired peace and union.

The climax is reached. One more earnest appeal is made to the Republicans. Senator Cameron answers it by moving a reconsideration. His motion is called up on the 18th. He votes against his own motion! It is carried, however, over the votes of the Republicans, although Wigfall votes with them. It is again up on the 2d of March, 1861. The Southern States are nearly all gone; even then it is lost by one vote only. But on this occasion all the Democrats are for, and all the Republicans against it. The truth is, there is nothing then but sneers and skepticism from the Republicans at any settlement. They break down every proposition. They eliminate the elements of conciliation out of the Peace Convention before it assembles. Senators Harlan and Chandler are especially active in preparing that Convention for a failure. If every Southern man and every Northern Democrat had voted for this proposition, it would still require nine Republicans for the requisite two-thirds. Where are they? Dreaming with Mr. Seward of a sixty-days' struggle, or arranging for the division of the patronage of Administration? The only Southern Senators who seem to be determined against any settlement are Iverson and Wigfall.

No man will challenge this review of party positions, if he will refer to the *Congressional Globe* (1st part, Thirty-sixth Congress, p. 270,) for the testi-

mony of Douglas and Pugh, and to Mr. Bigler's Bucks County speech, Sept. 17, 1863. The latter then said: "When the struggle was at its height in Georgia between Robert Toombs for secession, and Alexander H. Stephens against it, had those men in the Committee of Thirteen, who are now so blameless in their own estimation, given us their votes, or even three of them, Stephens would have defeated Toombs, and secession would have been prostrated. I heard Mr. Toombs say to Mr. Douglas that the result in Georgia was staked on the action of the Committee of Thirteen. If it accepted the Crittenden proposition, Stephens would defeat him; if not, he would carry the state out by 40,000 majority. The three votes from the Republican side would have carried it at any time; but union and peace in the balance against the Chicago platform were sure to be found wanting." Many facts were brought to light during the war, and subsequently, showing that, while President Buchanan was working for the Peace Conference, while Virginia had been gained to its side with her ablest men, there were even then in the Cabinet those who not only encouraged revolt, but foiled by letter and speech the efforts of the Unionists at Washington and Richmond. Those who sought to counteract the schemes of secession were themselves checkmated by extreme men of the Republican party. Whether, therefore, the public records are consulted or the inquirer goes within the veil and consults those who know the elements then at work in the committees and in social life, one leading fact will always stand stark and bold, namely, that with the aid of a handful of secessionists *per se*, the whole body of the Republicans were — as Andrew Johnson described Senator Clark, when the latter defeated the Crittenden resolution by his amendment — "acting out their policy." In the light of subsequent events, that policy was developed. It was the destruction of slavery at the peril of war and disunion; or, as Senator Douglas expressed it, "a disruption of the Union, believing it would draw after it, as an inevitable consequence, civil war, servile insurrections, and finally the utter extermination of slavery in all the Southern States." Whether a great war, with its infinite and harmful consequences, was the proper means to such an end, is not for the writer, but the reader, to determine for himself. The general belief at this time is, that the war has given us in a new order, full compensation for its cost in means and life. Whether this be a correct estimate or not, the historians and philosophers of the future can better judge.

Vallandigham.

Before closing this chapter the writer will indulge in a few remarks on a brave colleague who suffered as much for his patriotism and love of liberty as any member of that Congress. No man has been more thoroughly misunderstood and abused than Clement L. Vallandigham, of Ohio. There never was a man in public life who had a greater devotion to the Constitution and institutions of his country than he. His motto was to do right, to

trust in God, in truth, and the people. Amid the harsh criticisms upon his course in 1863, he appealed to time and right. Well might he have said: "Nobly hath the avenger answered me."

Negrophilistic fanaticism produced and encouraged an intense hatred of this statesman; for his whole public life was a protest against the extremists and a clear and uniform expression of a true love of country. He warned against the sectionalism which brought on the deadly national conflict. When it came, he differed from many in whom the people had reposed confidence; but he stood by his principles, and he held his position immovably against a terrific current of raving prejudice. For this he was denounced as a traitor and disunionist. But the immense circle of his friends who observed his inflexible firmness, even in his last terrible trial, stood by him to the last. He was born in New Lisbon, Ohio, July 29, 1820. His father was a Presbyterian clergyman from Virginia. He was descended from a family which came from the French Flanders of the old Frisian stock. Like Calhoun he was educated under Presbyterian influences, and had the inflexible character that they developed. He began public life very early as a teacher, lawyer, and editor. When he was twenty-five years of age, he was elected to the Ohio Legislature. He opposed the Wilmot proviso, with tongue and pen, in the legislature and upon the stump. He opposed those who denounced the annexation of Texas, and who declared that the Union was dissolved thereby. He held that the Mexican War was a constitutional war, that it should be sustained, and that nothing but an honorable peace should be its end. The compromise measures of 1850 found in him a rare and eloquent defender. As a friend of peace and concord and a lover of the Union, he held that every law upon the statute-book of the United States which was constitutional should be vindicated. Thrice he ran for Congress and thrice was beaten. At last, in 1856, along with George H. Pendleton, John A. Bingham, Benjamin Stanton, and others who made a name in the Thirty-fifth Congress, he was elected; but was not admitted to his seat until after a contest upon the floor of the House. That contest was settled on the 25th of May, 1858. It turned upon certain negro votes, but it fixed Vallandigham as one of the most conspicuous of our public men in the national councils. Few will fail to remember what was known as "The Ohio Rebellion" in 1857. Vallandigham led the Union force in that contest. It grew out of the fugitive-slave act, in connection with *habeas corpus*, and excited almost as much agitation in the state, as if war had been flagrant. In 1859, the John Brown raid took place in Virginia. Mr. Vallandigham's presence at Harper's Ferry a few hours after the capture of Brown, enabled him to witness the first shedding of blood between the sections. In the campaign of 1860, he rose to the full height of the great argument for the Union. He feared that the inevitable fruit of abolition sentiment, which had culminated in the Republican organization,

would be disunion. To the Democrats of Detroit he then said: "Human nature has been misread from the time of Cain to this day, if blood, blood, human blood, is not the result."

It is true that when secession came, he was opposed to coercion and favored compromise. In this course he was a companion of Senator Pugh and John J. Crittenden. During the winter of 1860–'61, when a committee of one from each state was selected to consider the condition of the country, Mr. Thomas Corwin, of Ohio, was selected as the member from that state. When Judge Hawkins, the elegant and sole representative of the State of Florida, arose in his seat and declined to serve on that committee, the vexed question became still more vexatious. It was then, on the tenth day of December of the year 1860, that Mr. Vallandigham made one of his stirring speeches in the House. "We are all ready," he exclaimed, "and, sir, all in the cause of our yet, thank God! common country; and by no vote or act or speech of ours, here or elsewhere, shall anything be done to defile or impair or overthrow this, the grandest temple of human liberty ever erected in any age. But we demand to worship at the very foot of the altar, and not, as servants and inferiors, at the outer courts of the edifice. Sir, we of the Northwest have a deeper interest in the preservation of this government in its present form than any other section of the Union. We have an empire equal in area to the third of all Europe, and we do not mean to be a dependency or a province either of the East or of the South. A nation of warriors we may be; a tribe of shepherds, never."

While Mr. Vallandigham held that war was disunion, final and eternal separation, and exclaimed with Chatham, "You cannot conquer America," he was not unwilling, when he found the South succumbing before the attacks of the Union armies, to make what he called a New Departure. But before that time, and during the war, he had offered peace resolutions declaring the object of the war, holding that no state could be extinguished by Federal authority, and that to declare any state extinguished, or to establish territorial governments or permanent military governments within it, should deserve the censure of the House and the country. Mr. Vallandigham, together with many of the Democratic members of Congress of that day, and even such Republican members as Judge Benjamin Thomas, of Massachusetts, had a profound reverence for the wisdom of our ancestors. They could not, in thought or action, allow the supremacy of the national government without its own sphere, or within the reserved rights of the states. They held that between the national and state powers there was no necessary conflict; that each jurisdiction was the complement of the other; and that both were vital parts of that political system under whose admirable distribution and adjustment of powers the people of the United States had enjoyed for so many years the most beneficent government that ever existed. They did not believe that there was any inherent defect or want of wisdom or foresight in its founders,

nor that we had outgrown its provisions, nor that it was behind the age. If trouble came, it would be because the age was not worthy of a government which had failed to be appreciated in the spirit of wisdom, prudence, and moderation in which it was founded.

Vallandigham was no champion of the gospel of anarchy or the philosophy of dissolution. He would stand by the Constitution, whoever else might falter. He believed in the system of many states in one polity, working in their respective spheres as if the Divine hand had moulded and set them in motion. For preaching this gospel, for asserting the right to keep and bear arms in a state where war was not flagrant, for his opposition to coercion, and for his attempt to restore the Union through peace, the men of that time know what happened to him in 1862 and 1863. From the platform at Mount Vernon, Ohio, in the month of May, 1863, the writer and Mr. Vallandigham addressed the people of Knox County, Ohio. Certain military orders had been issued before that time which restricted the right of the people freely to discuss the condition of public affairs. In fact, confiscation had been threatened in case of their violation. These orders were then properly denounced as military insolence. It was a time when every case at law could have been determined in the open courts of Ohio, and every question of politics, at the ballot-box. Vallandigham counseled no resistance to law, but he would meet and repel all mob violence by force and arms on the spot. During the meeting at Mount Vernon the conscription law was discussed, in fact, mostly discussed by the writer of this book. By some mistake the provost-marshal, or some other reporter, gave his words as the words of Vallandigham. This was testified to before the court martial which convened in Cincinnati on the sixth day of May, whereat the author was a witness and swore to the facts. The result was that a military commander arrested Mr. Vallandigham, at his house in Dayton, by a strategic movement, with the aid of 150 soldiers. A special train was on hand. Houses were guarded near Vallandigham's residence and along the street to the railway station. The doors of his house were broken open, his bed-room was entered, the prisoner was captured, placed in the railway car, all within thirty minutes. He was consigned to a prison. The author was summoned as a witness the next day, and went through the burning depot at Hamilton to Cincinnati. The indignation of the people was deep and terrible. From his prison, on the 5th of May, 1863, Vallandigham issued a letter to the Democracy of Ohio. He declared that he was in a military Bastile for no other offense than political opinions, and the defense of the rights of the people and of constitutional liberty. The writer arrived at Cincinnati at daybreak on the morning of the 6th. He was informed by General Burnside that Mr. Vallandigham would not be convicted. He was requested to so advise Mrs. Vallandigham, who was in great distress. But some counter movement took place afterwards. The whole thing was changed. Vallandigham was convicted by the military court. He refused to acknowledge its jurisdiction, but this plea was treated

with contempt. He was charged with publicly expressing — in violation of General Order No. 38, from headquarters of the Department of Ohio — sympathy for those in arms against the government of the United States, and with declaring disloyal sentiments and opinions for the purpose of weakening the power of the government in its efforts to suppress an unlawful rebellion. The president of the court had directed a plea of not guilty to be entered, and the case was opened. With clear and deliberate speech and unexcited demeanor he, a private citizen of Ohio, addressed the court martial. He claimed that he was arrested without due process of law; that as he was not either in the land or naval forces of the United States, nor in the militia in the actual service of the United States, he was not triable for any cause by any such tribunal as a court martial or military commission. He insisted that if triable at all, he should be tried in a civil court under the Constitution, on an indictment or presentment by a grand jury, there to be confronted with witnesses, to have compulsory process, the assistance of counsel and evidence and argument, according to the common law and the ways of judicial courts. An attempt was made to obtain a writ of *habeas corpus*. This failed. The court reserved the application from May 12, when the arguments concluded, until the 16th, and then refused it. Having been found guilty on the 16th of May, he was sentenced to close confinement as a prisoner at Fort Warren, Boston Harbor. He remained in his place of confinement at the Burnet House, Cincinnati, for six days longer, and then by some whim of tyranny, he was, on the order of the President, transported beyond the lines. He was banished from his native state for no crime, by the compulsion of an arbitrary and tyrannical power. The purpose of the order by which he was sent to the South was malicious. It was intended to give party color to calumny. In his farewell to the people of Ohio, he said that no order of banishment executed by superior force could release him from his obligations or deprive him of his rights as a citizen of Ohio and of the United States. At noon on the 29th of May, 1863, he left his military prison and embarked on a steamer for the South. When the boat reached Elizabeth, a journal of that city gave it a salute, as it said, for the heaviest gun that the Administration had ever put on a boat. On Sunday evening, May 24, he arrived at Murfreesboro, and was taken to the office of the provost-marshal-general, where he met General Rosecrans and other officers. He was kept under guard until after midnight, and then moved southward in charge of a mounted escort. Daylight found him upon the Federal outpost. A flag of truce was sent forward. The Confederate colonel reluctantly consented to receive the exile. Vallandigham was delivered to the guards, asking them to mark his words: "I am a citizen of the State of Ohio, of the United States of America. I am sent within your lines contrary to my will and wish. I ask that you receive me as your prisoner."

These facts reveal one of the darkest chapters connected with the war. It was a gross outrage of liberty in the person of one of the truest patriots

of the country. Vallandigham was chosen as a candidate for governor of Ohio, on the 11th of June, 1863, being still an involuntary exile. Meanwhile he had run the blockade, passed around into Canada and communed with his friends, the author among them, across the border. During the reconstruction period Mr. Vallandigham gave most of his time to his profession. Still he was meditating many new modes of departure for the benefit and success of his party — departures from old methods which had not received the approbation of the people.

On the morning of June 13, 1871, while the author was standing at his door-steps in New-York City, he received from the postman a letter. It was from his friend Vallandigham, asking him to ponder over the policy of his new departure. There was a postscript to the letter in which he said: "Am full of murder now,"— meaning that he was engaged in trying a very important murder case, in which a Democratic editor was concerned, and in which his personal feelings were intensely wrought.

Here is the letter:

"DAYTON, OHIO, June 11, 1871.

Hon. S. S. Cox, N. Y.

MY DEAR SIR: Yours received. All right, right in time and direction both; and the 'dry bones' everywhere are shaking. "J. D." seems to prefer to be a 'dry bone' still. No matter: he's past prophesy any how. Truly, etc.,

C. L. VALLANDIGHAM.

P. S. The *Enquirer's* bones being a little *caries*, it is hard for them to shake. But they will, by and by. Am trying the McGehan case, and am full of *murder* just now."

What he meant in his letter by the phrase that "the dry bones everywhere are shaking," was a reference to his new departure in political tactics and sentiment, which he was then preaching. He advocated absolute acquiescence in all amendments of the Constitution, and the general pacification of the elements of strife, North and South. In this liberal endeavor he was thwarted by "J. D."; or those representing the old element, of which Jefferson Davis was the type.

Almost within the next five minutes after reading this letter the writer received a telegram from Dayton, Ohio. It briefly stated: "Your friend Vallandigham accidentally shot himself while practicing with a pistol to illustrate the murder case which he was trying. Come to his funeral as soon as possible." He died six days after the letter was written. This was the last of earth to a statesman who was outspoken and fearless in a time of great anxiety and peril,— an orator who graced the noble fervor of many an hour by the affluence of his classic and biblical references and allusions, and who, while steadfast in his friendships and devoted to his country, never failed to draw from his partisans the warmest adulation possible to leadership in America.

CHAPTER V.

THE IMPENDING CONFLICT.

THE THIRTY-SIXTH CONGRESS — WHAT BECAME OF THE MEMBERS — HOW THEY ACTED IN THE WAR — NORTHERN AND SOUTHERN CONGRESSMEN EMBATTLED — A PARLIAMENT WITHOUT PRECEDENT — WHY THE BATTLE OF BELMONT WAS FOUGHT — A CHAPTER OF WAR, ADVENTURE, AND NECROLOGY — ELY'S "ONWARD TO RICHMOND" — JUDGE REAGAN'S REPULSE OF THE ENEMY — THE SENATORS AND MEMBERS IN THE FIELD — THEY FOUGHT AS THEY VOTED — INAUGURATION OF PRESIDENT LINCOLN — FIRST GUNS OF THE WAR.

THE object of this chapter is to give something of the after-life of members of the Thirty-sixth Congress who were conspicuous in defending or resisting the doctrine of secession, which led to such lamentable consequences. "There were giants in the land in those days"; not a few "mighty men, which were of old, men of renown." They have almost passed away with their day and generation.

The Thirty-sixth Congress met on the 5th of December, 1859. Considered by results, it was, perhaps, the most important congregation of men that ever assembled upon our continent. It held the destinies of our institutions and races in the hollow of its hand. The Senate was presided over by John C. Breckenridge, Vice-President of the United States. Its members became famous in the two subsequent decades. Hannibal Hamlin became Vice-President, and William P. Fessenden, Secretary of the Treasury. They were Senators from Maine. John P. Hale, of New Hampshire, was a man of abundant wit and juiciest humor. He became Minister to Spain in President Lincoln's administration. He returned home health-broken and spirit-broken, in 1869, because of the attacks of a New-York paper. Of the other New England members, Jacob Collamer had been Postmaster-General, and Henry B. Anthony became presiding officer of the Senate. The death of Senator Anthony has recently been deplored with most fervent and sympathetic eulogy. Lafayette S. Foster, of Connecticut, preceded him as President of the Senate and Vice-President *ex officio*. Massachusetts had Charles Sumner and Henry Wilson as its tribunes. They were fit repre-

sentatives of the Puritan and progressive element for which New England has been celebrated.

New-York had Preston King, who was known, when in the Democratic ranks, as a devotee of anti-slavery, and William H. Seward, than whom no greater Foreign Secretary has appeared since Jefferson's day. Simon Cameron, Senator from Pennsylvania, became Secretary of War, and afterwards Minister to Russia. He lives to a ripe old age, not so much in his son, who is his senatorial successor, as in the generosities of his nature. He was indefatigable in organizing our war forces. He initiated the policy of enlisting colored soldiers. James A. Bayard, the irreproachable Senator from Delaware, died long since, but he survives in his gifted son, upon whom the senatorial mantle also descended. James M. Mason, of Virginia, is most widely known by his association with John Slidell in the affair of the Trent. Robert M. T. Hunter, of the same state, than whom no man was more sedate in judgment, survives in venerable age. He became Secretary of State in the Confederacy. He is now a poor man, but is not the less honored by his state and by his record. Since the close of the war he has served his state in some fiscal relation. He will be known to those who care to look into his life and service as one of the best economists, theoretically and practically, known to the decade which preceded the war. Among other Confederate Cabinet officers, he was for some time a prisoner at Fort Pulaski, Georgia. He had been a short time before a member of the commission that met at General Grant's headquarters for the purpose of considering terms of peace. Had he but exercised the immense influence which he had in the South, he might have been more potential than almost any other man — not excepting Jefferson Davis — in the Confederacy. Thomas L. Clingman, of North Carolina, became a Confederate general. He still lives, though suffering from many wounds. He gives his time to science, and his memory to politics. James H. Hammond, of South Carolina, was a man of splendid ability and rare oratory. He was the author of *The Pro-slavery Argument*. He long since preceded his colleague in that Senate, James Chesnut, Jr., to the other world. The latter became an aid-de-camp on the staff of Jefferson Davis, and afterwards a general of brigade. Alfred Iverson, of Georgia, was then an old man, but strong of will. His name indicates that he belonged to the Norse race, whom no disasters by sea or land could intimidate. He served as colonel and brigadier-general in the Confederate army, and his son commanded a Confederate regiment. Robert Toombs, his colleague, was the first Confederate Secretary of State. He retired from that office in July, 1861, to enter the Confederate army. He commanded a Georgia brigade in Longstreet's celebrated fighting corps. He had some differences with Jefferson Davis. He is a man as opulent in purse as he is generous in disposition and able in oratory. Benjamin Fitzpatrick, of Alabama, retired from the Senate a few months before the war began. He was

a plain, old-fashioned miller, and not a man of conspicuous ability. He had not the audacity peculiar to men of dash and skill, like his colleague, Clement C. Clay, who also withdrew from the Senate about the same time. The latter was a gentleman of elegant and dignified presence and calm elocution, but of defiant attitude upon questions affecting Southern policy. Mr. Clay became a Confederate Senator. In 1863, he went on a foreign mission for the Confederacy. In 1865, he was arrested and for some time imprisoned at Fortress Monroe.

Of the Senators from Mississippi, one was Jefferson Davis. He retired from the Senate on Jan. 21, 1861, and became President of the Confederacy. His record forms a large chapter of American history. He is more widely known than any other man connected with that Congress. Albert G. Brown, the other Senator from Mississippi, raised a military company. He became its captain and fought at Leesburg. He was afterwards elected to the Confederate Congress. When the war was over he returned to his plantation. He was foremost in advocating and advancing the acceptance of the legitimate results of the war. In season and out of season, he opposed all ineffectual efforts to continue the conflict. He opposed all policies that were contrary to public or personal liberty and to the progress of new opinions and new elements in his state. He died in 1883, generally regretted. The Senators from Louisiana were John Slidell and Judah P. Benjamin. The career of each had its romantic side: — Slidell became the Minister of the Confederacy to France, and gave tone to a certain class of society in the French capital. Benjamin was an Israelite. He was the first Attorney-General of the Confederacy; afterwards he became its Secretary of War and Secretary of State. He was thoroughly educated in the canons and practice of the civil law. After the war was over he betook himself to London. There he became one of the most successful, as he was one of the most accomplished, of the solicitors and advocates of the British bar. He died recently in Paris, long after the ardors of his young ambition had been burned out. Of George E. Pugh, of Ohio, the writer has already spoken. Benjamin F. Wade is best known as a man after the Cromwellian type. He was of rugged, fierce, and vindictive feeling. His climax as a politician was reached when he failed to take the place that would have been vacant by the impeachment of Andrew Johnson.

Kentucky was well represented in that Congress. John J. Crittenden had been twice Attorney-General of the United States. He had been the governor of his state, and been four times elected to the United States Senate. Afterwards and during the war he became a member of the House. He was a fervent patriot and a leading light in the Union cause. Lazarus W. Powell, Mr. Crittenden's colleague in the Senate, was a man of large and stalwart frame, whose heart was co-extensive with his body. He is best known by his wonderful speech against military interference in the elections

of the people. It is a monument of which his children may be proud. It is worthy of the state of Henry Clay. It is worthy of a state which has produced a galaxy of men each one of whom would have been a conspicuous star, but for the varied lustre of other stars of primary magnitude. A. O. P. Nicholson, of Tennessee, had been a devotee of the Union. He had been a writer for the Washington organ of the Democracy. Andrew Johnson was well known for his devotion to the Union in peace, in war, and in reconstruction. Graham N. Fitch and Jesse D. Bright were the Senators of Indiana. Both were intense in their notions of duty. They had an inclination toward the South, but with no loss of steadfastness toward the Union, which they thought could not be preserved by coercion. Trusten Polk, of Missouri, was a man whom it is pleasant to recall for his amiable disposition. His name is associated with many heroes,—clerical, executive, and legislative. James S. Green, the other Senator from Missouri, although he sank into comparative obscurity after the war, was a champion for the vigor of the Constitution in its relation to slavery. He competed with Douglas for the honors of the great debate on territorial power over that subject. Zachariah Chandler, of Michigan, was afterwards Secretary of the Interior. He was the third of his name and family in the Senate. Kinsley S. Bingham, his colleague, died in October, 1861. Stephen R. Mallory, of Florida, became the Secretary of the Navy of the Confederacy. He had been chairman of the Naval Committee of the Senate before the war. After the close of the war he was arrested on a charge of treason, and confined for a short time at Fort Lafayette. David L. Yulee now resides in Washington City. He lives in elegant leisure. He was the companion of Mr. Mallory in the Senate, from Florida. He was also a companion of Mr. Hunter in arrest at Fort Pulaski. Mr. Yulee is a man of wealth, which he accumulated by foresight and skill in the management of railroads.

At the end of that Congress there was only one Senator from Texas—John Hemphill. He died at Richmond, as a Confederate Senator, in the early part of the war. Lewis T. Wigfall, his colleague, participated in the bombardment of Fort Sumter. He was for a short time a brigadier-general in the Confederacy, and afterwards a Senator. James Harlan and James W. Grimes represented Iowa. The former has since been Secretary of the Interior. He is now connected with the Alabama Claims Commission. Senator Grimes was a man of clear intellect. He was a leader in the business of the Senate. He has long since deceased. He, too, was a man of wealth. Charles Durkee was known for his hostility to the fugitive-slave law, which Wisconsin had resisted almost as persistently as Ohio. James R. Doolittle, his colleague, was then a Republican Senator, but the excesses of his party after the war was over, and especially in connection with reconstruction and impeachment, drove him to his early love, which was the Democratic party. He is a prominent man now in the resumption of power by that or-

ganization to which he gave the devotion of his earlier years. The only prominent Senator from California in that Congress was William M. Gwin. He is a native of Tennessee. He is a man of herculean build. He was early associated with Southern sympathy and interests. He gave his whole heart to the cause of the Confederacy. In many relations with politics, before and since the war, he was a pillar of cloud by day and of fire by night, upon our extreme western coast. When the Thirty-sixth Congress met, Minnesota had but one Senator. Henry M. Rice is specially remembered, because it was by his side, when he was a Delegate from Minnesota before the state was admitted, that the writer sat in the old hall, on his first entrance into Congress in 1857. Oregon was represented by Gen. Joseph Lane and Gen. Edward D. Baker. Both were heroes of Mexican fame. General Lane was known to every part of the country as the associate of Mr. Breckenridge upon the Southern ticket. His name recalls a pleasant incident. In moving into the new hall and drawing for seats, General Lane was awarded the seat that had been temporarily occupied by the author. When the name of the latter was called, although the youngest of the members, General Lane escorted him, amidst the cheers of the House, to the new seat, since so often occupied by him, saying at the same time: "I have no need of a seat, sir; but I expect you to vote very soon for the admission of the State of Oregon. I am but a Delegate, and you are a member. You may survive me in the work which is here to be done. I go to another sphere. As soon as the vote on the admission of Oregon is taken, I shall be its Senator." At the outbreak of the war General Baker took command of the "California" regiment, and fell at Ball's Bluff in October, 1861, while gallantly commanding a brigade.

In the House of Representatives of that extraordinary Congress there were 109 Republicans, 101 Democrats, 26 "Americans," and one known as a Whig. Of the State of Maine, the three leading men were: Ezra B. French, who became Second Auditor of the Treasury; Freeman H. Morse, who went abroad as Consul to London, and Israel Washburn, Jr., who became governor of Maine. New Hampshire gave to the army of the Potomac Gilman Marston and Colonel Tappan, each of whom led well equipped regiments to the field and served conspicuously during the war. Their splendid records may be found in the volume of Major Otis T. R. Waite, entitled, *New Hampshire in the Great Rebellion*. They both live, full of honors. Vermont had Justin S. Morrill, who still survives as the venerable Senator from that state. He is known for his peculiar activity in the formation of protective tariffs. Massachusetts, among other members of rare talent, had Anson Burlingame. He was noted for his famous escapade in the Brooks-Sumner trouble. He became our Minister to China, and afterwards an ambassador of that power. Alexander H. Rice became governor of the state. John B. Alley survives many not so rich as him-

self. He is now a resident of Washington. Charles R. Train was for many years the attorney-general of Massachusetts. Henry L. Dawes is now a Senator from that state. Eli Thayer, with whom the author was associated at Brown University, still lives. He was active in sending anti-slavery emigrants into Kansas. He is a man of eccentric humor and of wonderful and advanced thought, mixed with practical sense. He is a living steam engine. Charles Francis Adams, by inheritance and ability, at that time might almost have stood as a bulwark against the tumultuous waves of party passion. He was a peerless man. He discharged with distinguished ability the delicate and arduous duties of Minister to Great Britain during the Civil War. His diplomatic correspondence of that period shines with patriotism, elegance, and eloquence. Every letter is a masterpiece. Orris S. Ferry, of Connecticut, afterwards became Senator.

New-York, at that time, furnished few who afterwards became conspicuous in public life. Among those who became known in the war in a martial way were Daniel E. Sickles, John Cochrane, and Charles H. Van Wyck. The latter is now the anti-monopoly Senator from Nebraska. General Sickles organized the "Excelsior Brigade," whose many brilliant achievements made it most worthy of its name. It may be said that he is one of the heroes of Gettysburg. He became military governor in the South, and afterward was Minister to Spain. John Cochrane survives in great vigor; and, although he was a Republican for many years, he has returned to his early love — the Democratic party. Horace F. Clark was a son-in-law of Vanderbilt, of New-York. He was, at that time, a prominent actor upon the scene. John B. Haskin still lives. He has been an active politician in the city of New-York. Francis E. Spinner is known as well by his integrity as by his signature. Roscoe Conkling has a fame that reaches to the extremity of the Republic, and far beyond. Charles B. Sedgwick lived many years in his native district, the honored possessor of an honored name. He was especially honored in the profession of the law, to which he dedicated most of his life. He died three years ago. Alfred Ely became noted in connection with the battle of Bull Run. He was captured and borne by the Black Horse Cavalry to Richmond under the cry of "On to Richmond." He left a blessed name as the dispenser of much comfort to his fellow-prisoners in Libby Prison. Elbridge G. Spaulding lives in Buffalo, along with his accumulated riches. He surveys with serene satisfaction the history of our banking system, with the origin of which he had so much to do. Reuben E. Fenton represented the last of the thirty-three districts in New-York. Since then he has made a splendid figure in the Senate, and in the gubernatorial chair of New-York. He lives to make his reminiscence of the scenes of this remarkable Congress.

William Pennington is the first name from New Jersey among its five members. He became Speaker after a bitter contest lasting two months.

He had been governor of New Jersey. He was a man of splendid presence, with great talent for humor, a capital stump-speaker, and perhaps the most thoroughly *un*accomplished man in parliamentary law who ever wielded the gavel. Delaware, then as now, had but one member, William G. Whiteley. He is now on the bench in his native state. James A. Stewart, of Maryland, long since deceased, became a judge also. J. Morrison Harris, Edward H. Webster, and Henry Winter Davis were elected to the Thirty-sixth Congress by the "American" party in Maryland. They gave their efforts to the Union party. Mr. Webster and Mr. Harris survive. Mr. Davis was the most gifted in eloquence and logic of any member in Congress within the author's acquaintance. Virginia presented a remarkable company. Their subsequent history is a study for men who are adepts in necrology. Muscoe R. H. Garnett, member from the first district of Virginia, married Miss Stevens, a rich lady from Jersey City. He volunteered into the war and became an aide to Gen. Joseph E. Johnston. The author was informed by Judge Reagan, of Texas, who was the Postmaster-General of the Confederacy, that he himself was present at the battle of Seven Pines when General Johnston was wounded and borne off the field, at the time Mr. Garnett was with him. Jefferson Davis, General Lee, and General Magruder were present at that engagement. Mr. Garnett afterwards died; but not from any wounds received in battle. Daniel C. Dejarnette became a member of the Confederate Congress. He has made frequent visits to Washington. Roger A. Pryor is a revered citizen and an eminent lawyer of New-York at this time. He is a hale, manly, courageous man. He dares at all times to express his opinion; even though it may be in singular contrast with his previous thought, or the ideas of others. He was a brigadier-general through the war, and, wherever it was possible, he was in an engagement.

Thomas S. Bocock, who was a candidate for Speaker of the Thirty-sixth Congress, and for whom the writer voted, became afterwards Speaker of the Confederate Congress. He did not serve in the army, except, perhaps, as the writer has been informed, on one occasion. While the troops were away from Richmond and a raid was apprehended from the Union cavalry, Mr. Speaker Bocock, after the manner of the early English Speakers of the Commons, assumed a military *rôle* and became captain of a company of members of the Confederate Congress in the defense of Richmond. He is still active as an extensive planter, and maintains the style of the old and elegant Virginian hospitality. Shelton F. Leake was a member of the Confederate Congress. But what shall we say of Governor Smith? He is best known by his pet name of "Extra Billy." He was a man of undaunted courage and of wonderful resources. He became a major-general in the Confederate army. He graduated from the war as the governor of Virginia. He and his sons were often wounded, for they never shirked danger. Upon

one occasion, when he was but a colonel, he was ordered by a general in command, to move forward down a road, to divide his command and capture the enemy. He rushed to the capture with such impetuosity, that when reproached for not dividing his force as he had been ordered, he replied: "I captured the enemy, sir, before I could divide." Alexander R. Boteler is still living. He had some relation with the Centennial Anniversary. He made the most eloquent speech, next to that of Sergeant S. Prentiss in his own case, ever delivered in Congress. He was a Union man before the war, and deprecated hostilities. He made a picture before the House, of Washington, the Virginian, with his homespun and buckskin-clad patriots, moving to the defense of Massachusetts. It was emotional enough to have stirred the stones to mutiny against secession. But afterwards he became "Stonewall" Jackson's adjutant-general,—a fact showing the force of state pride in forming and directing the plastic Virginian and Southern mind. Albert G. Jenkins had been a classmate of the author at the Athens, Ohio, University. He commanded a cavalry brigade in the Confederate army, and was killed in the third year of the war. Col. Harry A. Edmondson became a member of the Confederate Congress, and still lives. North Carolina rejoiced in a Union man whose name was William N. H. Smith. He came within one vote of being Speaker. After the many complications connected with the speakership, the writer voted for this gentleman in the famous contest which the Helper book occasioned. Twenty odd years afterwards he met him in North Carolina, and had the pleasure of being introduced by him, in courteous words and kindly oratory, to an audience in Fayetteville. Mr. Smith is now chief justice of the state. Thomas Ruffin, of North Carolina, died of wounds as a prisoner. Lawrence O'B. Branch became a Confederate major-general. He was killed at Antietam. He was conspicuous as a soldier. While a member of Congress he was dignified, reticent, able, and just. Warren Winslow was fond of literature. He read poetry amidst the most fiery debates. He was not a young man, and was worried at last into following his state into secession. He died in 1863. John A. Gilmer was a strong Union man in Congress. He had a treasure of fun which his oratory and features never belied. He became a member of the Confederate Congress. He never fought, except through his son. He lived until after the war was over. Burton Craige, of North Carolina, was a man of herculean proportions. He is chiefly remembered by the members of the Thirty-sixth Congress for an attack made upon him by Mr. Helper, for something said in debate connected with local politics. The attack was made with a pistol, near the writer's seat, just after an adjournment in mid-afternoon. Zebulon B. Vance, when he first came to Congress, had a very youthful look. He registered among the South "Americans." It was not long before he gave evidence of being a strict Federalist after an intense Union pattern. His voice was never heard at Washington for disunion.

He served with the writer on the Committee of Revolutionary Claims. Often, along with George Briggs, of New-York, who gave the casting vote for Mr. Pennington for Speaker in the long contest of that Congress, he used to drink "to the next war" from a healthy and stealthy demijohn in the committee room. Little was thought then of what the "next war" meant to them and theirs.

South Carolina had six members of Congress. They were men of varied ability. John McQueen was a man of fine physique and courteous manner. He was brother-in-law to Governor Pickens. The writer recalls him from one incident which happened at the Metropolitan Hotel when he first came to Congress. He had an opportunity of exercising a little surgical skill in setting the jaw of a young son of Mr. McQueen, who had dropped two stories into the area of the hostelry. Mr. McQueen used to say to the writer, whom he always called "Doctor" after that incident, that if his boy lived, he would be the President of a Southern Confederacy; and if any difficulty happened in the culmination of that event, and the writer should become a prisoner, the courtesy of the McQueens — who had saved Prince Charlie in Scotland — should be extended to him. John McQueen became a member of the Confederate Congress. He was not in the military service. He died in 1867. William Porcher Miles, of South Carolina, was a man of great urbanity and ready aptitude in speaking. He became a member of the Confederate Congress. He is now the president of an agricultural college in Virginia. He is specially adapted, by method and manner, to win people to his thought. Lawrence M. Keitt was the Chevalier Bayard of the Congress. He was without reproach, full of dash in debate, of dainty elegance of expression, and fiery ardor for his section. He died of wounds received at Cold Harbor, twenty miles north of Richmond. He fell while skirmishing and riding wildly ahead of his regiment. Milledge L. Bonham became a brigadier-general in the war. He fought bravely. Afterwards he became governor of South Carolina. He still lives, a contented planter. John D. Ashmore, of South Carolina, withdrew when his state seceded. His hair was as straight as that of an Indian, and as dark and glossy as that of an Oriental. He served in the Confederate army, and died at Sardis, Mississippi, in 1871. William W. Boyce, dialectician, student, and economist, became a member of the Confederate Congress. He lives near Washington in an honorable old age. He is worthy of the best description of Cicero in his *De Senectute*.

Louisiana had one marked Unionist, John Edmund Bouligney. He was of dark aspect, of French descent, — a Creole of Creoles. His widow lives in Washington. He did not long survive the outbreak of the war. Miles Taylor was as sedate as a judge,— in fact he had been upon the bench. He became a member of the Confederate Congress. Thomas G. Davidson, a stout, heavy man, walked with a cane and a lame foot. He still lives in

Louisiana. He has been a member of local legislatures in that state. John M. Landrum died long since. Kentucky gave Henry C. Burnett, with a divided sense of responsibility, a seat in the Confederate House of Representatives. He finally reached the Confederate Senate. He died without military service shortly after the war ended. John Y. Brown came to Congress before he was of the constitutional age. He was a member of Congress with quite a contest, after the war was over. William E. Simms, of Kentucky, was also a member of the Confederate Congress. Of the Tennessee members connected with that Congress, six out of the ten were Union men. They were known as "Americans," sometimes called "Know-Nothings." Of these, Horace Maynard turned out the most distinguished. He became Minister to Turkey, and afterwards Postmaster-General. He died a few years ago. R. B. Brabson broke his leg, and died soon after the war began. With Robert Hatton, the writer had a regretable controversy, which in the flush of that time looked toward a personal rencontre. Mr. Hatton became a Confederate brigadier-general. He was killed at Seven Pines. He has left a remarkable name for his splendid and courageous defiance on the field of battle. J. H. Thomas was a Democrat. He had been a law partner of President Polk. He was a good lawyer, and a man of excellent ability. Of John V. Wright, who is still as young in appearance as he was when a member of the Thirty-sixth Congress, the writer can speak with some ardor and personal enthusiasm. Mr. Wright had a personal trouble with John Sherman in the old hall. He became a brigadier-general in the Confederate army. At the battle of Belmont, Philip B. Fouke, John A. Logan, and John A. McClernand, three Democratic members from Illinois, met John V. Wright upon the field. There was no military object in fighting that battle — if the writer has been correctly informed — except to show that the North and South were each made up of men of mettle. At that battle there was a romantic incident. Fouke had started with his regiment beyond the lines. Wright drew his telescope upon him. He saw that he was the whilom Democratic member from Illinois. Fouke was riding to the front to make a reconnoissance. A soldier lifting his musket drew a bead upon him. Wright immediately said: "Down with your arms! Don't fire, for God's sake, don't fire!" Fouke was saved. The two have frequently spoken since of the imminent danger out of which Colonel Fouke was rescued by old congressional associations. John V. Wright has since been a judge of the Supreme Court of Tennessee. He now resides in Nashville. James M. Quarles was at first a Union man. He was a brigadier-general in the Confederate Army. He lives, honored in his profession, at Nashville, Tenn. William T. Avery represented Memphis. The writer received a letter from him while he was a prisoner at Johnson Island, during the war. He received courtesy from him after the war was over, in Memphis, and regretted to hear, shortly after 1877, that his friend had been drowned in the Mississippi River.

Missouri gave seven members to that Congress, all Democrats. Thomas L. Anderson still lives. He is an elderly man, a prominent lawyer, and has been somewhat engaged in politics in his native state. John B. Clark is now a blind old gentleman, with whom the author has often conferred since the war. He is a man of rare wit and indomitable courage. He became a general in the Confederate service. His son served ten years in Congress from Missouri, and is now the clerk of the House of Representatives. The father was in the Confederate Congress. James Craig lives at St. Joseph. He was a captain of Missouri volunteers in the Mexican war. He became a brigadier-general in the Union army and served gallantly. He is a man of wonderful adaptability to public life. He gives his thought mostly to railroads for the increase of the prosperity of the West. He is honored among his friends at St. Joseph. Samuel H. Woodson and John W. Noell are both dead. Arkansas furnished, perhaps, the most efficient Confederate major-general known to the war. His name is Thomas C. Hindman. He was an irreconcilable man. No one could eat more fire in a given time in connection with Southern questions in that Congress. While he was on the floor of the House it seemed as if he was perpetually anxious to have a duel. He lived at Helena. There was much criticism on his conduct connected with the war. He had made private enemies. While sitting in his room after the war, he was shot through the window by some one unknown. Albert Rust, of Arkansas, was a tall, elegant, splendid man, of kindly sympathy and great heart. He became a general in the Southern Confederacy. He died in 1870. The Georgia members have been singularly successful, either because their state suffered less or because of some imperial vitality belonging within its borders. L. J. Gartrell was colonel of the Seventh Georgia Regiment. He fought at the first Manassas battle. He was a member of the Confederate Congress, and afterwards a brigadier-general. He yet lives. Peter E. Love died in 1861, without seeing service, either civil or martial. Martin J. Crawford was captured in 1862, in Kentucky. He was a Confederate colonel of cavalry. He died within the last two years, while on the supreme bench of his state. James Jackson is now chief justice of Georgia. Thomas Hardeman illustrates most substantially his surname, for to the writer he seems as stalwart as he was twenty-four years ago, when he left the American Congress and became the captain of a Confederate company. He was wounded at the battle of Frazer's Farm; but he is now, along with two others of the Thirty-sixth Congress, a member of the Forty-eighth Congress. He has not been elected to the Forty-ninth Congress. Joshua Hill had sons who fought for the Confederacy. He was a Union man and became a United States Senator. J. W. H. Underwood, of Georgia, did not go into the war. He was one of those men who had sedate thoughts about our future, and did not believe that anything helpful to the South could come from the contest.

Alabama signifies the land of rest. Before the war closed it had no rest in this conflict. The member from Mobile, James A. Stallworth, is remembered by the writer, for he sat near him in that Congress. In the conflict between Keitt and Grow, in the small hours of the morning, it was this tall, robust man who was almost the first in the *mêlée*. He took no part in the war, and died shortly after it began. James L. Pugh was a Calhoun dialectician. He is now a member of the United States Senate. He was a member of the Confederate Congress. David Clopton served in the same Congress, and became a judge of the Supreme Court of Alabama. Sydenham Moore went into the war as colonel of the Eleventh Alabama, and was killed in the Seven Days' fight. Jabez L. M. Curry became a colonel of cavalry and a member of the Confederate Congress. He is now a resident of Richmond, where he has lived for many years since the war, as a leading minister of the Baptist denomination. He is the head of the administrators of the Peabody fund, and administers that philanthropic trust with wonderful sagacity and unceasing energy. Williamson R. W. Cobb is remembered as a tall, gaunt, remarkable man. He was chairman of the Land Committee. He was elected to the Confederate Congress, but did not live to take his seat. He was accidentally shot. George S. Houston was chairman of Ways and Means. He went out with his state, and afterwards did good service in restoring Federal relations. He was elected to the Senate in 1865, and was refused a seat. He became governor in 1874, and died a United States Senator. As to Mississippi, the writer remembers specially Reuben Davis. He was always upon his feet. He never failed to make sharp points. He had been judge of the court of appeals, and colonel of the famous "Mississippi Rifles." He served in the late war, in command of a brigade. He is one of the ablest lawyers of his state. Gen. Otho R. Singleton is now a member of Congress from Mississippi. He is one of the oldest members connected with the Federal Legislature. He was in the Confederate Congress, but served in many of the battles of the war. Lucius Q. C. Lamar entered the Confederate service as a lieutenant-colonel of a Mississippi regiment; but he was soon appointed by Jefferson Davis on a special mission to Russia. After the war, his accomplishments led him to become the professor of economy in the Mississippi University. His rare oratorical and dialectical skill has made him of perpetual utility to the state which he represented so well in the Senate. He came back to Congress as member and Senator. He has just been appointed to President Cleveland's Cabinet. John J. McRae is remembered by the writer with singular affection. He was a man of extreme views. He even defended the slave-trade. He was a dissenter from the dissenters. He was elected to the Confederate Congress, but ill health led him to Honduras in search of a better climate and relief from the anxieties of the war, and there he died. William Barksdale sought no civic honors after the war came. He went into the army as a private in the Thir-

teenth Mississippi. He became its colonel. He was in all the battles in Virginia. He became a general. On the second day of July, 1863, in Longstreet's charge against Sickles' corps at Gettysburg, he was in the advance. He fell, and with him most of his brigade. He lives in the memory of his state. His brother worthily represents the capital city of Mississippi in Congress.

What shall be said of Texas? Texas then had but two Congressmen — John H. Reagan and Andrew J. Hamilton. Now she has eleven members. This illustrates the wonderful development which Texas has had since the war. In fact, Texas was a reservoir of the Southern spirit and enterprise which the war aroused. The war gave her vitality and vigor. Her increment is not alone due to her situation, soil, climate, and area; but to that inevitable law of movement which drives men away from the localities where their cause has been lost. Texas has had a varied and singular history. Gen. Samuel Houston, Governor Throckmorton, now a member of Congress, and Andrew J. Hamilton, along with Judge Reagan, in the beginning were Union men. When the war was over, no man did as much good for that imperial state as Andrew J. Hamilton. He was one of President Johnson's best provisional governors. He was in the constitutional convention when excesses were rife. He kept that state out of trouble. He disfavored the *ab initio* policy, which sought to eradicate everything upon the law books, from the days of secession to the days of reconstruction — making nullity and creating confusion and litigation. He defeated the projects of the wilder portion of the extreme men of the Union party. When Governor Pease followed him in the executive chair, and recommended thirty thousand more proscriptions than reconstruction proscribed, Andrew J. Hamilton successfully resisted. He desired that every man in the state who was a voter should vote. He thus lifted Texas out of the miry muck and social ostracism of the party then in power at Washington. He remained at all times loyal to the Union cause. He died at Austin in 1875.

Judge Reagan, of Texas, at first a Union man, was elected to the Texas secession convention. He followed his state out of the Union. He is a man of civic, social, and economic thought. He is indefatigable in its vindication. He became Postmaster-General of the Southern Confederacy. How he executed that trust, Southern men know. It was a most difficult duty. He did not serve in the Southern army; but is full of its warlike memories. At Richmond, during many emergencies, he had occasion to observe and sometimes to take a part in the many adventurous dashes which belonged to the besieging of that capital. Oftentimes Richmond was left without defense. On one occasion when some Union cavalry made one of their daring raids, Richmond was particularly exposed. The Confederates resorted to a ruse. Colonel Lines, an eminent attorney of Richmond, and a Confederate Senator, was in command of the principal fortification. There were no

)s to defend it. Mr. Mallory, Secretary of the Navy, and Postmaster-
ral Reagan visited the fortification. In a stentorian voice Lines com-
led: "Reagan and his troops to the right! Mallory and his brigades to
eft!" and in equally stentorian voice these solitary brigadiers gave
s to their supposititious commands. The enemy at once fell back and
ity was saved! Mr. Reagan recounts this exploit with great gusto.
now one of the foremost members of the House.

George S. Hawkins represented Florida alone. It was on his motion that the South made the first attempt at recusancy in the House of Representatives. He had been a soldier in the regular army, and had gone down to Florida to fight the Seminoles. He was a man who was so well preserved that he had been married six times. He did not live to see the result of the war. Iowa furnished two men to the Thirty-sixth Congress, Gen. Samuel R. Curtis and William Vandever. Col. William Vandever did service in the war; but of him the writer cannot speak much. But of Gen. Samuel R. Curtis, the hero of Pea Ridge, the author of the Pacific Railroad system, it is only necessary to say that as an engineer on the Muskingum in Ohio, and on the Des Moines in Iowa, as a highly distinguished soldier in the Mexican War and the war for the Union, as the skillful chief engineer of St. Louis, as one of the pioneers who came through Baltimore with the Seventh Regiment of New-York when the war began, and as one of the best men who ever wore earth about him, he had but one parallel — himself. Perhaps the writer is not fitted to speak of him impartially because of intimate connections, only rendered more endearing and ardent by the lapse of time.

Wisconsin gave Cadwalader C. Washburn and Charles H. Larrabee to the Union army,— one from each party. Washburn rose to the rank of major-general. After the war he served in the Fortieth and Forty-first Congresses and became governor of his state. He died in 1882. Larrabee became disabled by wounds, and after the war removed to settle in Washington Territory. He was killed in a railroad accident a few years ago. California at that time was represented by John C. Burch. He has been a reporter of the Supreme Court at Sacramento. Charles L. Scott, her other Representative, removed from California to his native home in Alabama, where he now lives. Minnesota furnished two members, one of whom has since been Secretary of the Treasury — William Windom. He was continued as a Representative until 1870, when he became Senator. The other member was Cyrus Aldrich. He was afterwards a member of the state legislature, and postmaster of Minneapolis, where he died in 1871.

Perhaps one of the most noted men at the beginning of the war was a Delegate from Washington Territory, Isaac I. Stevens. He was a Massachusetts man, a West Point graduate, and a splendid soldier. He fell at Chantilly, Virginia, in 1862, at the head of his division. His name will long be revered among our Western pioneers and their descendants.

There are other members as well as Delegates of that Congress, of w[illegible]in the writer could and should make special and honorable mention. Ir[illegible]in memorabilia connected with these incidents one thing is apparent. It ca[illegible]d-be obliterated. It is this: the great body of the men who gave their vot[illegible]ry that Congress to secession indorsed them by martial courage. Man[illegible]pi defending them upon the field of battle. Those who survive bear hono[illegible] scars in personal justification of their opinions. That Congress gave a[illegible] — the Union cause many who won imperishable renown on the field of ba[illegible]. Those who remained in the succeeding Congress were engaged in a no less arduous field of duty. The physical strife was not more fierce than the encounters in the legislative halls over issues which shook the whole structure of our political system to its very foundations.

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On a gloomy day in March, 1861, the Thirty-sixth Congress adjourns *sine die*. There are many sad and last farewells — for the pall of impending wrath hangs over all the land. Black clouds of war loom up all around, surcharged with the elements of death and devastation. Abraham Lincoln takes the oath to support and defend the Constitution of the United States. For the first time in the Republic a Chief Magistrate is installed under the protection of artillery charged with grape and canister. He makes his fealty amid no holiday array of plumed horsemen and martial music, with gaudy surroundings of fluttering banners and streaming pennons. The pomp and circumstance of civic and martial display have no place to-day in the Federal capital. No loud huzzas greet the escorting squadron as it advances along the avenue with tightened rein and clanking scabbard, and sabres drawn, all ready for the charge! This small but disciplined array, the cold line of infantry with bayonets fixed, the champing of troop horses, the tramp of armed men, the rumbling of cannons, the hoarse command of general officers, the unlimbering of guns trained to sweep the streets; what mean these dreadful preparations? Surely this is a vision of the wrath of war! At last, in the culmination of the events which presaged it, the supreme moment has come. There is a short truce. Then, hark! the peace is broken. South Carolina begins the conflict. The tempest is upon us! The lightnings of Moultrie are launched against the Union standard. For days it proudly waves over the volcano of Sumter, until, at last, it falls into the extinct crater. Before the evening zephyrs have dispersed the sulphurous smoke of the bombarding guns or hushed the bellowing mortars, the "fall of Sumter" is flashed to every hamlet in the land — and the whole Nation springs to arms! Now, indeed, is war in its most terrible form. The fields of strife are red for the reaper. The abyss of the grave yawns for the embattled hosts who are to fall in the conflict. Weep now, ye mothers, for the sons to whom ye give the last embrace on earth; how unspeakable is your portion of the sorrow and desolation that is to come.

UNIVERSITY CALIFORNIA

CHAPTER VI.

THE THEORY AND PRACTICE OF SECESSION — MR. CALHOUN'S EXPOSITION OF THE DOCTRINE — HE FAVORED NULLIFICATION BUT NOT SECESSION — JEFFERSON'S VIEWS — THE KENTUCKY AND VIRGINIA RESOLUTIONS — ALIEN AND SEDITION ACTS — MR. MADISON'S INTERPRETATION — MASSACHUSETTS SHOULDER TO SHOULDER WITH SOUTH CAROLINA ON STATE RESISTANCE — THE PERSONAL LIBERTY BILLS OF THE NORTH — SOUTH CAROLINA LEADING SECESSION MOVEMENTS — ALEXANDER H. STEPHENS' GREAT SPEECH FOR THE UNION — JEFFERSON DAVIS' PROPOSITION — ACTION OF TEXAS — THE SOUTHERN CONFEDERACY IN MONTGOMERY — FEDERAL AND CONFEDERATE CONSTITUTIONS — PROTESTS AGAINST SECESSION — *DE FACTO* IF NOT *DE JURE* GOVERNMENTS IN THE SOUTH — A LINE OF HOSTILITY BETWEEN TWO GREAT COMMUNITIES — THE CRITTENDEN RESOLUTIONS — SECESSION AND SLAVERY SUBORDINATE TO THE LINCOLN POLICY FOR THE UNION — THE ANOMALOUS SECESSION OF WEST VIRGINIA FROM OLD VIRGINIA — VARIOUS THEORIES AS TO THE INSURGENCY — ALL MERGED IN LINCOLN'S POLICY — THE FINALE OF SLAVERY AND OF ITS INCIDENT, SECESSION.

MR. CALHOUN is regarded as the expounder, if not the author, of the theory that the several states have the sovereign right to withdraw from the Union whenever a majority of their people decide that their liberties have been invaded, or are unsafe within its control. This opinion, however, has no foundation in his speeches and writings on the principles and powers of the Constitution. He expressly disclaimed the theory. In a letter from the late Reverdy Johnson to Edward Everett, no doubt is left in regard to Mr. Calhoun's views on secession. The letter bears date June 24, 1861. Mr. Johnson states in it that it was his good fortune to be a member of the United States Senate for four years, from 1845, with Mr. Calhoun; that during two sessions they resided in the same house; and he thus sets forth Mr. Calhoun's doctrine:

"He did me the honor to give me much of his confidence, and frequently his nullification doctrine was the subject of conversation. Time and time

again have I heard him, and with ever-increased surprise at his wonderful acuteness, defend it on constitutional grounds, and distinguish it, in that respect, from the doctrine of secession. This last he never, with me, placed on any other ground than that of revolution. This, he said, was to destroy the government; and no constitution, the work of sane men, ever provided for its own destruction. The other was to preserve it,—was, practically, but to amend it, and in a constitutional mode. As you know, and he was ever told, I never took that view. I could see no more constitutional warrant for this than for the other, which, I repeat, he ever in all our interviews repudiated, as wholly indefensible as a constitutional remedy."

The doctrine of secession is sometimes traced to the Kentucky Resolutions of 1798. The original draft of these resolutions was written by Mr. Jefferson. But a careful analysis of this manifesto shows, that while it seems to give countenance to the idea that a state may declare an act of Congress null and void, it cannot be cited as authority for the more radical measure of a dissolution of the Union. At least, it was not so understood at the time of its appearance.

The first resolution denies that the states are united on the principle of unlimited submission to the general government. It declares that by compact they constituted a general government for special purposes, with delegated powers, while reserving, each state to itself, the residuary mass of right to its own self-government. It adds, "that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each state acceded as a state, and is an integral party; that this government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

By "each party," Mr. Jefferson refers to the states on the one hand, and the general government on the other; and his meaning, therefore, would be that the states as one party and not a single state, have an equal right with the general government, to judge of infractions. It is true that this was not a strictly accurate way of speaking, since the Constitution and Federal Government, which were created by the states and people, cannot be regarded as a party to the compact. They are the creatures of the compact. But the context shows that Mr. Jefferson used the term, parties, in this sense; and hence, he could not mean that a single state could decide finally upon the constitutionality of the laws of Congress.

The remaining resolutions show that the Alien and Sedition acts of Congress were unconstitutional usurpations, unjust and oppressive. The last of the series appeals to the co-states to unite with Kentucky "in requesting

their repeal at the next session of Congress." Such was "the mode and measure of redress" proposed by Kentucky.

The House of Representatives of the State of Kentucky, in November, 1799, resumed the consideration of the subject. Mr. Desha was in the chair. After some time spent therein, the Speaker resumed the chair, and Mr. Desha reported that the committee had taken under consideration sundry resolutions passed by several state legislatures, on the subject of the Alien and Sedition laws, and had come to a resolution thereupon. The preamble to this report says:

"To again enter the field of argument, and attempt more fully or forcibly to expose the unconstitutionality of those obnoxious laws, would, it is apprehended, be as unnecessary as unavailing. We cannot, however, but lament, that in the discussion of those interesting subjects by sundry of the legislatures of our sister states, unfounded suggestions and uncandid insinuations, derogatory to the true character and principles of this commonwealth, have been substituted in place of fair reasoning and sound argument. . . . Faithful to the true principles of the Federal Union, unconscious of any designs to disturb the harmony of that Union, and anxious only to escape the fangs of despotism, the good people of this commonwealth are regardless of censure or calumniation."

The resolution was adopted. It declares, "unequivocally," the attachment of Kentucky to the Union: "She adheres to that compact, agreeably to its obvious and real intention, and will be among the last to seek its dissolution." She asserts "*that a nullification by those sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy.*"

The Kentucky Resolutions, therefore, claimed the right of the states — not of one state — to nullify unconstitutional laws; and they expressly repelled the charge that their import and purpose was to destroy the Union.

The Virginia Resolutions, prepared by Mr. Madison, and adopted Dec. 24, 1798, are still further removed in language and spirit, from the doctrine of secession.

They declare that the General Assembly will maintain and defend the Constitution of the United States. They profess a warm attachment to the Union, "to maintain which it pledges its powers." The third resolution embodies the theory of the Constitution which gives character to the document. It is as follows:

"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by

the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

This resolution contains the peculiar doctrine, or theory of constitutional construction, which the legislature meant to declare. Others follow in which the particular grievances complained of — the Alien and Sedition acts — are set forth. The series concludes with protesting the truest anxiety of the people of the Commonwealth for "establishing and perpetuating the Union." "The General Assembly appeal to the like disposition in the other states, in confidence that they will concur with their commonwealth in declaring that the acts aforesaid are unconstitutional; and, that the necessary and proper measures will be taken by each for co-operating with this state, in maintaining unimpaired the authorities, rights, and liberties reserved to the states, respectively, or to the people."

In an elaborate paper, prepared by Mr. Madison many years after the events to which these resolutions relate, he defends them with great force of logic. He repels the inferences that have been drawn from them, that they give sanction to either nullification or secession. He calls attention to the fact that the resolutions claim for the "states,"— meaning all the states,— the authority to interpose for arresting the evil, and for protecting their reserved rights. He rejects the idea that one state may do this; but that the states, in council or convention, which framed the compact, or have become parties to it, may do so. It follows, of course, that Congress would promptly repeal an obnoxious act which had been declared null and void by a majority of the states, and the remedy proposed would be at once effectual and peaceful. This masterly paper, with other selections from the writings of Mr. Madison, was published in 1853, "exclusively for private distribution," and has therefore been seen and read by few.

In another able paper Mr. Madison combats the secession theory that sovereignty is indivisible. He points to its inconsistency with the fact that the Constitution confers sovereign and exclusive powers upon the general government, accompanied by the means of enforcing them, while other sovereign powers are reserved to the states.

Mr. Madison incidentally refers to the Kentucky Resolutions of Mr. Jefferson. He denies that they give countenance to the theory of secession and nullification by a single state. It is curious to note, in this connection, that while the responses from the states under the control of the Federal party concur in condemning the Virginia Resolutions, none of them make the charge of a deliberate purpose to break up the Union. They deny the right of the states to pronounce an act of Congress unconstitutional, null, and void, and declare that the tendency of such proceedings is to produce anarchy or revolution; but the purpose of revolution is not charged.

The first section of the Sedition Act passed July 14, 1798, provided: "That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the Government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the Government of the United States, from undertaking, performing or executing his trust or duty; and if any person or persons, with intent as aforesaid, shall counsel, advise or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor." The penalty was a fine not exceeding five thousand dollars, and imprisonment for not less than six months nor exceeding five years,—and, at the discretion of the court, sureties for good behavior might be required.

The second section provided: "That if any person shall write, print, utter or publish, or shall cause or procure to be written, printed, uttered or published, or shall knowingly and willingly assist or aid in writing, printing, uttering or publishing, any false, scandalous, and malicious writings against the Government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said Government, . . . or to excite against them the hatred of the people, or to stir up sedition," he was to be punished, on conviction, by fine not exceeding two thousand dollars, and by imprisonment not exceeding two years. The act was to terminate on March 3, 1801.

These unpopular measures of the Federal party, together with the Alien act, passed on June 25, 1798, contributed more, perhaps, to the overthrow of that party than all other causes combined. Opposition to these illiberal laws became the shibboleth and the platform of the Republican (or Democratic) party of that day. Under that sign it conquered in the election of Thomas Jefferson over John Adams, the leader of the Federalists.

The Alien act gave the President authority to order all such aliens as he might judge dangerous to the peace and safety of the United States, or might have reasonable grounds to suspect of treasonable practices, to depart out of the territory of the United States within the time expressed in his order. The marshal was directed to serve the order, or leave a copy at the usual place of abode of the alien. Three years' imprisonment and permanent exclusion from the country was the penalty for failure to depart within the time specified. Licenses to remain might be granted to such aliens as could show that no harm would result to the country from their presence. Masters of vessels were required to report to the collector of the customs, the names, ages and places of nativity, the occupations, and places of embarkation of all aliens brought into the country. The operation of this act was limited to two years from the date of its passage.

An "act respecting alien enemies" was passed on July 6, of the same year. This act is still in force.

The denial by the Federal party of the right to question the constitutionality of acts of Congress by the states in the mode proposed, was singularly narrow in spirit. It was the denial to the sovereign states which framed and adopted the Constitution, of a right which is freely exercised by every citizen. It happened, a few years later, that the Federalists themselves were guilty of nullification, under circumstances of overt action which made their conduct criminal. When war was declared against Great Britain, in June, 1812, and the President made requisitions upon the governors of the states to furnish militia for the war, both Massachusetts and Connecticut refused compliance, on the ground that it would be unconstitutional to call out the militia until the enemy had invaded the country. In other words, Congress might declare war, but it could not raise an army until the enemy had gained a foothold on our soil. A committee of the Massachusetts Legislature, in February, 1814, made the following report to that body:

"A power to regulate commerce is abused, when employed to destroy it; and a manifest and voluntary abuse of power sanctions the spirit of resistance as much as a direct and palpable usurpation. The sovereignty reserved to the states was reserved to protect the citizens from acts of violence by the United States, as well as for the purpose of domestic regulation. We spurn the idea that the free, sovereign, and independent State of Massachusetts is reduced to a mere municipal corporation, without power to protect its people and defend them from oppression, from whatever quarter it comes. When the national compact is violated and the citizens of the state are oppressed by cruel and unauthorized law, this legislature is bound to interpose its power, and wrest from the oppressor his victim."

It appears from this declaration, that Massachusetts and South Carolina stood shoulder to shoulder in defense of the doctrine of state resistance to what their authorities might regard as Federal usurpation.

But the only successful instances of the nullification of a law of the United States are furnished in what are known as the "Personal Liberty Bills." These were enacted in several of the Northern states. Their purpose was to obstruct and defeat the execution of the fugitive-slave act of 1850. That act provided that a fugitive from labor, who had escaped into another state, might be seized by the owner, or his agent or attorney, with or without a warrant. Being brought before a United States commissioner, or judge, either of those officers was required to hear the case, and "in a summary manner" remand the fugitive to the custody of the claimant, his agent or attorney, upon the oath or affidavit of the claimant, his agent or attorney. The fugitive was not allowed to testify in his own behalf. The United States marshals were required to arrest the fugitives. This duty was to be done under a penalty for refusal or neglect. It was necessary for the claim-

ant to take with him from the state in which he and his slave resided, a certified paper of a court of record, showing that he had appeared before the judge thereof and made oath to the fact of his ownership of the slave and of the escape of the latter, accompanied with a description of his person. All "good citizens" were commanded to assist the marshal in arresting the fugitive. Any person who should obstruct or oppose the marshal, or the claimant, in arresting the fugitive, was liable to a fine of one thousand dollars and imprisonment.

The Massachusetts Legislature, in 1843, had passed an act forbidding sheriffs and other state officers to aid in arresting or detaining fugitive slaves, or to confine them in the jails of the state. In 1855 this act was re-enacted with reference to fugitives arrested under the act of Congress of 1850. This act of the legislature provided that fugitives from slavery should have the benefit of the writ of *habeas corpus* and of trial by jury. State officers were again forbidden to aid in making arrests of fugitives, on pain of forfeiture of office, and disqualification to hold office in the state. State judges were liable to impeachment for issuing warrants of arrests in such cases. The governor was required to appoint county commissioners to defend persons claimed as fugitives. State jails were not to be used for the imprisonment of fugitives. Each of these acts was unconstitutional.

Vermont, in the year 1843, enacted a law with provisions similar to those in the Massachusetts act of that year. In 1850, 1854, and 1858, additional enactments rendered it utterly impracticable to arrest a fugitive slave in Vermont. It was made a criminal offense for any person to declare or represent that any free person within the state owed service as a slave. The privilege of *habeas corpus* and trial by jury were given to fugitives, and the oath of two witnesses was required to establish the fact of slavery.

The Legislature of New-York, in 1840, gave the right of trial by jury to fugitive slaves.

Pennsylvania, in 1847, passed a similar act.

The Legislature of Michigan, in 1855, enacted that: "Whenever any inhabitant of the state is arrested or claimed as a fugitive slave," the prosecuting attorney of the county shall "use all lawful means to protect and defend every such person." All persons so arrested and claimed as fugitive slaves were to be entitled to the benefits of the writ of *habeas corpus* and to trial by jury. The jails of the state were not to be used for imprisoning fugitives. Persons who falsely charged a free person with being a fugitive slave were to be punished with imprisonment for not less than three years. For wrongfully seizing a free person the penalty was five years' imprisonment. The proof of slavery required two witnesses.

The Legislature of Wisconsin, in 1858, passed an act almost identical with the statute of Michigan.

These statutes of the states were in direct conflict with the fugitive-slave

act of Congress. They were designed to obstruct and defeat the execution of that act. They were practical applications of the doctrine of nullification. They were effective to that end in almost every instance. The census of 1860 showed that during the preceding decade, the escaping slaves from the South averaged about one hundred per annum, and of this number scarcely one in ten was reclaimed; and of those who reached the states which enacted the Personal Liberty bills, not more than two or three in the hundred were carried back into slavery.

It was owing to these acts, and the apprehension of more serious denials of state rights, that South Carolina led the secession movement in 1860. That small state, with a white population of 291,300, and a black population of 412,320, began the work of disintegration. Her ruling class was nearly unanimous in the belief that the election of a Republican President was a justification of the measure. Her governor, William H. Gist, in obedience to public sentiment, and in anticipation of the event, recommended, in his annual message, the call of a state convention for the purpose of considering the "mode and measure of redress." The legislature responded. At the same time the formality was observed of choosing Presidential electors. These electors cast the vote of the state for Breckenridge and Lane. The delegates to the convention were chosen Dec. 6, 1860. That body met on the 17th. The secession ordinance was adopted on the 20th. The United States officials in the state, and the Senators and Representatives in Congress resigned their places. The ordinance is brief. It served as the model for the other seceding states. It declares: "that the ordinance adopted . . . in convention, on the 23d day of May, in the year of our Lord 1788, whereby the Constitution of the United States of America was ratified, and also all acts and parts of acts of the General Assembly of this state ratifying the amendments of the said Constitution, are hereby repealed, and that the Union now subsisting between South Carolina and the other states under the name of the United States of America is hereby dissolved."

The vote on the passage of the ordinance was unanimous. A declaration of the "Causes which induced the Secession of South Carolina," was adopted. This document briefly refers to the events which preceded the formation of the Constitution of the United States. It announces the grounds of separation. It asserts that fourteen of the states had deliberately refused for years past to fulfill their constitutional obligations. It refers to their statutes for proof. The address copies the clause of the Constitution which requires that fugitives held to service in one state, escaping into another, shall be delivered up. It proceeds to remark that this stipulation was so material that the compact could not have been ratified without that clause.

The states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New-York, Pennsylvania, Illinois, Indiana, Michigan, Wisconsin, and Iowa are arraigned for enacting laws which either nullified the acts of Congress, or rendered useless any attempt to execute them.

It was true that in many of these states the fugitive was discharged from the service of labor claimed. In none of them did the state government comply with the stipulations made in the Constitution. The State of New Jersey, at an early day, passed a law in conformity with her constitutional obligation; but the current of anti-slavery feeling led her more recently to enact laws which rendered inoperative the remedies provided by the former law and the acts of Congress. In the State of New-York, even the right of transit with a slave was denied by her tribunals. The states of Ohio and Iowa refused to surrender to justice fugitives charged with murder. Their people incited a servile insurrection in the State of Virginia. Thus, said the address, "the constitutional compact has been deliberately broken and disregarded by the non-slave-holding states; and the consequence follows that South Carolina is released from her obligation."

It is singular that in this declaration of the causes which impelled the people of South Carolina to attempt a withdrawal from the Union, there is not an intimation that the Federal Government, in any of its departments, had encroached upon the rights of the state. It is not charged that Congress, or the Executive, or the Supreme Court, had been guilty of usurpation, or that any one of them had failed to perform the duties imposed by the Constitution. The whole ground of separation is based on the action of certain states in nullifying an act of Congress. This was, to say the least, a strange predicament in which the State of South Carolina placed herself, namely, that of a resort to secession as a remedy against her own favorite policy of nullification.

As a further ground of justification, the declaration alleges the facts that the Republican party had elected Abraham Lincoln to the Presidency; that his party was pledged to the doctrine of the non-extension of slavery; and that Mr. Lincoln himself had declared that the "Government cannot endure permanently, half free, half slave." But the declarations of a party which owed its success entirely to divisions in the ranks of its opponents were not likely to be engrafted on the statute-books during a single Presidential term; while to withdraw from the Union, even peaceably, would involve the inevitable consequence of losing the constitutional guaranty for the return of fugitive slaves. Nothing could be more remote from probability than the assumption that the Northern states would concede to a Southern confederacy the right to reclaim runaway slaves. Their reclamation would not have been tolerated under such a state of things. Neither could Southern men have reasonably calculated upon a division of the territories between a Northern and Southern confederacy. The condition of Kansas and Nebraska as free communities was then already decided. The remaining territories, if that held by the Indians be excepted, were in no respect adapted to the introduction of slavery. They were mostly too far north, sterile, or mountainous. Those best adapted to agriculture were

already under the control of Northern men. It should have been remembered by Southern men, that Great Britain and other European powers, though anxious to see the Union broken up, were as unfriendly to slavery as the Northern abolitionists, and far more so than the great mass of Northern men. In the event of successful secession, and the formation of a Southern confederacy, those trans-Atlantic powers would feel at liberty to take a far higher tone in regard to slavery than they had ever ventured upon while the institution enjoyed the protection of the American flag. Great Britain, France, Germany, Austria, and Italy might unite in treating inter-state commerce by sea in slaves as piracy. The Northern people would naturally have sympathized with and acquiesced in this European policy; and the Southern Confederacy would thus have found that political independence of the North had made their institution more vulnerable than ever to the intolerant anti-slavery sentiment of the civilized world. The prolonged existence of slavery under such circumstances would have been impossible.

Pending the debate in the South Carolina Convention upon the declaration of causes for secession, Mr. Gregg, a leading member, objected that no reference was made in it to the tariff, and internal improvements policy. But to this Mr. Keitt, who had for years been a prominent member of the United States House of Representatives, pertinently replied: "Your late Senators, and every one of your members of the House of Representatives voted for the present tariff. If the gentleman had been there he would have voted for it. The tariff is not the question which has brought us up to our present attitude. I am willing in this issue to rest disunion upon the question of slavery." Mr. Keitt, in the same connection, expressed his doubts about the constitutionality of the fugitive-slave act. This was to admit that the Northern states in adopting their personal liberty bills, had only nullified an unconstitutional act of Congress. Mr. Rhett reiterated the same doubt of the constitutionality of the fugitive-slave act. Mr. Meminger, the author of the declaration, stated that he concurred in that doubt. He therefore laid the grievance of South Carolina upon the failure of the individual Northern states to fulfill their constitutional obligations. It was not the Federal Government, he said, which had failed to perform its duty in this regard. He intimated his disapprobation of the attempt of Congress to do what was solely incumbent on the states.

On the 21st of December, Messrs. Barnwell, Adams, and Orr were elected and constituted a commission to proceed to Washington. Their purpose was to negotiate the terms of a cession of the forts, arsenals, and other public property within the limits of South Carolina. They were to settle the terms of peace and amity between the two independent republics. Commissioners were also sent to the other Southern States, to propose a Southern Congress. On Jan. 4, 1861, the convention elected delegates to the proposed Congress. Thus South Carolina attempted to pass out of the Union.

The Legislature of Georgia met on Nov. 8, 1860. On the 18th, it passed an act authorizing the election of delegates to a state convention. The election took place. The delegates chosen met on the 17th of January, 1861. On the 18th, a resolution was adopted declaring secession to be a right and duty. On the 19th, the ordinance of secession was adopted, by yeas 208, nays 89. The Senators and Representatives in Congress withdrew on the 21st. On the 24th, delegates were elected to the Southern Congress at Montgomery. Commissioners were sent to the other slave-holding states, on the 28th, charged with the duty of securing concerted action; and on the 29th, an address to the South and to the world was adopted. After a recess, the convention met again in March. The delegates ratified the Confederate States Constitution, and authorized the Confederate Government to take possession of the forts, arsenals, and other property of the United States which had been seized by the state authorities. On the 26th of April, Governor Brown issued a proclamation forbidding the payment of debts to northern creditors. He called on the people to pay these debts into the state treasury.

Foremost among the men of Georgia who opposed secession, was the late Alexander H. Stephens. In an address to the legislature, on Nov. 14, 1860, he said with emphasis, that the election of Mr. Lincoln did not justify secession; that secession, on account of the legal election of a President, would place the South in the wrong; that the House of Representatives was largely against the new President; and that in the Senate there was a majority of four against him. The speaker proceeded to state that the President could not form his Cabinet, nor appoint a public officer, without the consent of the Senate. "Where," said he, "will you go, following the sun in its circuit round the globe, to find a government that better protects the liberties of its people, and secures to them the blessings we enjoy? I think that one of the evils that beset us is a surfeit of liberty, an exuberance of the priceless blessings for which we are ungrateful."

In the same speech Mr. Stephens replied to a speech of Mr. Toombs, who had spoken on the previous day. The government of the United States had then been arraigned by Mr. Toombs on the charge of having taxed the South in order to pay bounties to northern fishermen. These bounties had subsisted under forty-eight years of Southern Presidential rule. The bounties had served to train sailors to fight the battles of the country. The tariff and navigation laws were grievances dwelt upon by Mr. Toombs. He held that they warranted an overthrow of the government. As to the tariff, Mr. Stephens replied that the duties had been readjusted to the satisfaction of the South; while the navigation acts had originated during the administration of a Southern President.

In the state convention Mr. Stephens made an able and earnest speech against secession. His language, in the light of subsequent events, was prophetic. "When," said he, "we and our posterity shall see our lovely

South desolated by the demon of war, which this act of yours will inevitably invite and call forth; when our green fields of waving harvest shall be trodden down by the murderous soldiery and fiery car of war sweeping over our land; our temples of justice laid in ashes; all the horrors and desolation of war upon us; who but this convention will be held responsible for it? And who but him who shall have given his vote for this unwise and ill-timed measure, as I honestly think and believe, shall be held to strict account for this suicidal act of the present generation, and probably cursed and execrated by posterity for all coming time, for the wide and desolating ruin that will inevitably follow this act you propose to perpetrate? What reasons can you give to the nations of the earth to justify it? What right has the North assailed? What interest of the South has been invaded? What justice has been denied?" He warned the delegates that "the last slave would be wrenched from them by stern military rule, or by the vindictive decree of a universal emancipation, which may reasonably be expected to follow." He asked, what had the South to gain by withdrawing from the Union? The South had always had the control of it, and could retain that control "if," said he, "we remain in it, and are as united as we have been." The South had fifty years of Southern Presidents to twenty-four of the North; and eighteen of the twenty-nine judges of the Supreme Court, although nearly four-fifths of the judicial business had arisen in the free states. "This," said he, "we have required so as to guard against any interpretation of the Constitution unfavorable to us." The South had also twenty-four of the thirty-five Presidents (*pro tem.*) of the Senate; twenty-three of the thirty-five Speakers of the House of Representatives, while the North had all along a majority of population and Representatives. The South had fourteen of the nineteen Attorneys-General; eighty-six of the one hundred and forty ministers; and a vast majority of the higher offices in the army and navy, foreign and civil service, with two-thirds of the clerical force. Mr. Stephens pointed to the facts that more than three-fourths of the revenue for the support of the government had been raised in the Northern states; that in the free states the expenditure for the support of the Post-Office Department, for the year 1860, was $13,000,000, and that the income of the department in those states was $19,000,000,—showing an excess of revenue amounting to $6,000,000. The expenditure by the department in the Southern States was $14,716,000, while the postal revenue in those states was only $8,001,026,—leaving a deficit of $6,714,974.

Mr. Stephens concluded with the remark, that he regarded the government of the United States as "the best and freest government—the most equal in its rights, the most just in its decisions, the most lenient in its measures, and the most aspiring in its principles to elevate the race of men that the sun of heaven ever shone upon." He declared the attempt to overthrow such a government to be the height of folly, madness, and wickedness, to

which he could neither lend his sanction nor his vote. The appeal was all in vain. This array of facts and arguments failed to arrest the tide of secession. The ordinance was voted for finally, nearly three to one.

Alexander H. Stephens was a great figure in the eye of the Nation. During the old contests between the Whig and Democratic parties, he was a staunch Whig. As time wore on, the Republican party arose and he became a Democrat, along with his friend, Robert Toombs. He was called by his host of admirers, "the Georgia commoner." His home was called "Liberty Hall." He was never married, owing perhaps to his physical decrepitude. He was a man of singular appearance, being almost like a skeleton. Toward the end of his life he was wheeled in and out, to and from his seat in Congress, upon a chair from which he made some of his ringing congressional speeches, even at the end of his career. In early life his spare figure was erect and his dark hair unfrosted. At the end of the war he was imprisoned in Fort Warren. On his release he sent for the writer who, being then a citizen of New-York, renewed the old acquaintance which had begun in Congress as early as 1857. Mr. Stephens was the contemporary and friend of such men as Herschel V. Johnson, William H. Crawford, Charles J. Jenkins, Joseph Henry Lumpkin, and was a brother of Judge Linton Stephens. He was the author of two volumes connected with the war, entitled *The War Between The States*. They are written in a lucid but colloquial style, after the manner of the *Imaginary Conversations* of Walter Savage Landor, yet they lack that cogency which belongs to his speeches, and have more discursiveness than properly belongs to interesting narrative.

Frequently, during his service in Congress after the war, he was enfeebled, and remained at his room, or in his bed; but, for a chronic invalid, he was the most remarkable that "e'er wore earth about him." His patience, in spite of pain, was remarkable. His good humor was ever refreshing. He was as kindly a man as could be met in politics or in any sphere. He assisted the poor and ambitious scholar with his purse, and the poorest negro boy had his helpful advice and kindly offices. Upon one of the occasions when he was lying discouraged and ill at his room in the National Hotel, expecting to die, he sent for the writer. He was surrounded by friends, who looked disconsolate. Mrs. Coleman, the daughter of John J. Crittenden, was ministering to him, as it was thought, in his last illness. After taking the hand which now writes these lines, he turned over with a pleasant smile, and said: "I have read your eulogy on Speaker Kerr. I sent for you to make a request — a last request. Will you promise to deliver my eulogy when I am gone?" I promptly caught his compliment and smile, and said: "I would like you to promise me one thing; and that is to make *my* eulogy; you will be the survivor." Turning quietly to Mrs. Coleman, he said: "Well, he will always have his little joke," and he promised to be my eulogist. He got well.

At the end of his service in Congress, he was elected governor of Georgia. He was not, in one sense, a consistent Democrat, as men regard consistency. He frequently had individual and independent opinions of men and measures. No one could be more independent than he was before the legislature and the Confederate convention of Georgia, when he made his great speeches against secession and in favor of the Union. In his book he prints a *fac simile* of a letter written by Abraham Lincoln on the 30th of November, 1860, in which the then President-elect says: "I have read in the newspaper your speech recently delivered before the Georgia Legislature or its assembled members. If you have revised it, as is probable, I shall be much obliged if you will send me a copy." Thereupon, there began a correspondence between these gentlemen who had served together on the same committee in Congress, in which Mr. Lincoln undertook to strengthen the Union sentiment of Mr. Stephens by saying in the conclusion of one of his letters: "You think slavery is right and ought to be extended, while we think it is wrong and ought to be restricted. That, I suppose, is the rule. It certainly is the only substantial difference between us." Mr. Stephens held that that difference was not a sufficient cause for war, and he dilated upon it with such fervor, spirit, and patriotism that he almost persuaded Georgia to halt before giving its consent to secession.

The Legislature of Mississippi met on the 26th of November, 1860. A convention was called, and the election of delegates fixed for December 20. They assembled Jan. 7, 1861. On the 9th, an ordinance of secession was adopted by a vote of 84 to 15. The minority, on the next day, signed the ordinance. It was thus made unanimous. The ordinance declared for independence. It expressed a readiness to form a Southern confederacy, on the basis of the old Constitution. A committee was appointed with reference to the subject. It recommended a provisional government. On the 30th of March, the convention ratified the Confederate Constitution. The Representatives in Congress resigned on the 12th of January. Albert G. Brown, one of the Senators, resigned on the 14th, and Jefferson Davis on the 21st.

Mr. Davis may be regarded as the exponent, then, of the sentiments and purposes of the State of Mississippi, and of the South. He was a member of the Senate Committee of Thirteen, in December, 1860. He submitted a proposition in that committee, that it be declared, by amendment of the Constitution, that property in slaves, recognized as such by the local laws of any of the states in the Union, shall stand on the same footing in all constitutional and Federal relations as any other species of property so recognized, and like other property shall not be subject to be diverted or impaired by the local law of any other state, either in escape thereto, or of transit or sojourn of the owner therein. He held that in no case whatever should such property be subject to be diverted or impaired by any legislative act of the United States or any of the territories thereof. This proposition, which

would have introduced slavery into the free states, was not agreed to — yeas 6, nays 6. Messrs. Rice, of Minnesota, and Bigler, of Pennsylvania, voted with Messrs. Davis, Hunter, Powell of Kentucky, and Toombs, in its favor. Mr. Crittenden voted with the Northern Senators, Messrs. Collamer, Doolittle, Grimes, Seward, and Wade, against it. Mr. Douglas withheld his vote, or was not present. Slavery, therefore, was the sole ground of controversy, in the estimation of Mr. Jefferson Davis, in December, 1860. But, like many other Southern men, in the progress of the struggle he seems to have subordinated slavery to the question of Southern independence.

The Legislature of Florida assembled Nov. 26, 1860. Gov. M. S. Perry, in his message, recommended the call of a convention, and the immediate secession of the state. A convention was called on the first day of December. The delegates were elected, and the body met on the 3d of January, 1861. On the 10th, an ordinance of secession was passed by yeas 62, nays 7. On the 18th, delegates were appointed to the Southern Congress at Montgomery. On the 21st, the Senators and Representatives of the state withdrew from the Congress of the United States. The legislature, on the 14th of March, passed an act defining treason. It declared that holding office by a citizen of Florida under the Federal Government, after an act of collision between the state and Federal forces, would be treason.

The Legislature of Louisiana met on the tenth day of December, 1860. On the following day a convention bill was passed. The delegates elected were to assemble on the 23d of January, 1861. That body assembled accordingly, and on the 25th an ordinance of secession was passed by yeas 113, nays 17. By a vote of 84 to 45, the convention refused to submit the ordinance to the popular vote for ratification. The Senators in Congress withdrew on the 5th of February; and the Representatives, except Mr. Bouligney, withdrew on the same day. Pilots were prohibited from bringing United States vessels into the Mississippi. The convention, on March 7th, adopted an ordinance in secret session. By it, the specie in the United States mint was transferred to the Confederate States Government. The amount was $536,000. On the 16th, a proposition to submit the Confederate States Constitution to the popular vote was rejected — yeas 26, nays 74. That constitution was ratified in the convention by yeas 101, nays 7. The governor was authorized to turn over to the Confederate Government all public property of the United States which had been seized by the state authorities. The convention adjourned, *sine die*, on the 27th of March.

The Legislature of Alabama ordered an election to take place Dec. 24, 1860, for delegates to a state convention. The election was accordingly held, and resulted in favor of the secessionists, by 50,000 majority. The convention met January 7. On the same day the delegation from the state in Congress sent a dispatch to the convention advising immediate secession, as they saw no prospect of a satisfactory adjustment. On the 8th, an organ-

ization was effected. On the 11th, a secession ordinance was adopted in secret session. The vote was 61 yeas to 39 nays. A proposition to submit the ordinance to the popular vote for ratification was defeated. The vote was — yeas 47, nays 53. The legislature, on the 19th of January, chose delegates to the Confederate Congress. On the 21st, the Representatives and Senators in the United States Congress withdrew from that body. Commissioners were chosen on the 26th, to treat with the United States Government for the surrender of the forts, arsenals, and other public property within the state. The convention adopted a resolution requesting the people of each of the seceding states to send delegates to Montgomery on February the 4th, to consult upon the most effectual mode of securing harmonious action in measures for their common peace and security. Commissioners were sent to the other slave-holding states. After a recess the convention reassembled on the 4th of March. On the 13th of that month, the Confederate States Constitution was ratified by a vote of 87 to 6. The convention passed an ordinance transferring the United States forts and arsenals to the Confederate Government. The vote in the convention upon the ordinance of secession shows that the people of Alabama were far from unanimous on that question.

The convention in Texas which passed the secession ordinance, was constituted without the formalities of law. It was therefore a revolutionary body. Its members were chosen in the primary meetings of the people, by concerted agreement throughout the state. On the 28th of January, 1861, they assembled. They proceeded to the consideration of an ordinance of secession. The Governor, Samuel Houston, was opposed to secession. He resisted the movement to the utmost of his power. The sessions of the legislature were biennial under the constitution, and that body could not meet until the autumn or winter of 1861, except on the call of the governor. For some time the hero of San Jacinto held out against the popular frenzy; but at length he yielded. He issued a proclamation convening the legislature, on the twenty-first day of January. That body promptly recognized the voluntary convention as legal. On the first day of February, the ordinance was adopted by a vote of 166 to 7. On the 7th of February, the convention decided to submit the ordinance to the vote of the people for ratification. The election took place on the 23d. It resulted in a majority of three to one, in its favor. The vote was, 34,794 for, and 11,235 against secession. In conforming with this vote, the convention, on March 4, declared the state independent and out of the Union. Governor Houston endeavored to regain public confidence by negotiations with General Twiggs for the surrender of the forts and public property, but he was ruthlessly thrown aside.

The Texas ordinance sets forth that the Federal Government had failed to accomplish the purposes of the compact of the Union between the states by not giving protection either to the persons of the people upon an exposed frontier, or to the property of the citizens. It recites the action of the Northern states

as violative of the compact between the states and the guarantees of the Constitution. "Recent developments in Federal affairs make it evident," it says, "that the power of the Federal Government is sought to be made a weapon with which to strike down the interests and property of the people of Texas and her sister slave-holding states, instead of permitting it to be, as was intended, our shield against outrage and aggression." It will be noticed that the convention of Texas alleges, as the first cause justifying a separation from the Union, the alleged failure of the National Government to protect the people of the state against the Indians or the Mexicans. The remaining ground of secession is the nullification of the fugitive-slave act by the Northern states. The "recent development in Federal affairs" probably refers to the election of a Republican President by a constitutional majority.

The Southern Confederacy was formed by South Carolina, Georgia, and the four gulf States,—Alabama, Mississippi, Louisiana, and Florida,—in February, 1861. The delegates chosen by the state conventions assembled at Montgomery, Alabama, on the fourth day of that month. On the 8th, a provisional constitution and government were agreed to, by a unanimous vote of the convention. The permanent constitution, adopted some weeks later, was modeled on that of the United States, but it contains some material variances. The initial words of the preamble, "We the people" of the Confederate States, are qualified by inserting, "each state acting in its sovereign and independent character." The words "provide for the common defense and promote the general welfare," are omitted.

The second section of the first article of the United States Constitution simply provides that the electors in each state, in choosing members of the House of Representatives, shall have the qualifications requisite for electors of the most numerous branch of the state legislature. The Confederate Constitution, in addition to these words, provides that the electors in each state shall be citizens of the Confederate States; and further, that "no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, state or Federal." This was an important change from the Constitution of the United States, as it stood at that time. The latter left the whole question of suffrage to the states. But the Confederate States Constitution, though spoken of by its framers as a mere compact or league between sovereign states, assumed the high prerogative of declaring who should vote, and who should not vote, not merely for Confederate congressmen, but for officers of the sovereign states. This was a stride toward centralization which went far beyond that of our Fifteenth Amendment. That amendment merely establishes uniformity of political rights, but it does not attempt to grant the franchise to any citizen.

In the United States Constitution, the words *slave* and *slavery* are not to be found. Mr. Madison, in the debates in the convention at Philadelphia in 1787, said he "thought it wrong to admit in the Constitution the idea that

there could be property in men." It was this sentiment, which pervaded that body, that caused the evasive circumlocution to be resorted to in apportioning representation and taxation, and in providing that "persons held to service or labor," and escaping into other states, shall be delivered up. The same eminent Virginian strongly opposed the clause which tolerated until the year 1808, the "migration or importation of such persons as any of the states now existing shall think proper to admit." He said that so long a term would be more dishonorable to the American character than to say nothing about it in the Constitution. But the framers of the Confederate Constitution were embarrassed by none of these scruples. They prohibited the African slave-trade. This was in deference to European sentiment. It was also domestic policy; but there was no hesitation about the recognition of slavery, *eo nomine*. It was placed on the basis of all other property, under the ægis of the confederation.

The Confederate Congress was given power, in the ninth section, to prohibit the importation of slaves from any state or territory not a member of, nor belonging to, the Confederacy. The President and Vice-President were to hold their offices for six years. No person not a natural-born citizen of the Confederate States, or a citizen thereof at the time of the adoption of the Constitution, or a citizen thereof born in the United States prior to the 20th of December, 1860, was eligible to the office of President. The latter must be thirty-five years of age, and fourteen years a resident of the Confederacy.

These are the principal deviations from the Constitution of the Union.

The clause defining treason is retained; and the sixth article, which declares the Constitution of the United States, and the laws and treaties made in pursuance thereof, to be the supreme law of the land, is adopted, with the necessary modification.

The plan for the election of President and Vice-President is retained.

This constitution was adopted unanimously by the delegates from the six states above named, together with those of Texas, on March 11, 1861.

The delegates, before framing the permanent Constitution, had adopted a provisional government, with a constitution. The constitution was similar to that of the United States. It declared the delegates to be invested with legislative powers under it, until the permanent government should be established. Jefferson Davis and Alexander H. Stephens were chosen as provisional President and Vice-President.

The accession of Arkansas, Virginia, North Carolina, and Tennessee to the Confederacy took place in the order thus named, in the course of the spring and early summer of 1861.

The Arkansas Legislature, on the 16th of January, 1861, passed an act calling a state convention. The delegates were elected on the 18th of February. They convened on the 4th of March. The popular vote on the question of calling the convention was, 27,412 for, and 15,826 against it. An

ordinance of secession was introduced and discussed. On the 18th of March, it was rejected by a vote of yeas 35, nays 39. It was then agreed to submit the question of secession to the vote of the people on August 1st. But before that day arrived, namely, on May 6, the convention reconsidered and passed the ordinance by yeas 69, nays 1. Delegates had been sent to the Provisional Congress, at Montgomery. The convention now authorized them to transfer the United States Arsenal at Little Rock, and the Marine Hospital at Napoleon, to the Confederate Government.

The preamble to the secession ordinance shows that the Arkansas Convention was moved to its adoption, not by the original causes which inspired the movement; but by the fact that President Lincoln had issued a proclamation calling for seventy-five thousand troops to suppress the Rebellion.

The Virginia Legislature met in extra session on the 7th of January, 1861. On the following day it passed a joint resolution. This resolution denied the right of the general government to coerce a state. On the 13th of the same month, an act was passed calling a state convention. The election was held on the 4th of February. At the same election the question was referred to the people, whether the result of the deliberations of the proposed convention should be submitted to them for ratification or rejection. It was decided in favor of submission, by a majority of 55,000. The convention met on the thirteenth day of February. After deliberating two months, it passed a secession ordinance in secret session on the 17th of April. The yeas were 88; the nays 55. The vote of the people upon the ordinance was cast in the latter part of May; but on the adoption of the ordinance by the convention, the Confederate Constitution was ratified. The Governor, John Letcher, issued a proclamation announcing the accession of Virginia to the Confederacy. Immediately after the ordinance of secession passed, a military league was formed by the convention, in the name of the people of Virginia, with the "Confederate States of the South." By this treaty the latter were bound to march to the aid of Virginia against the invasion of the Federal Government.

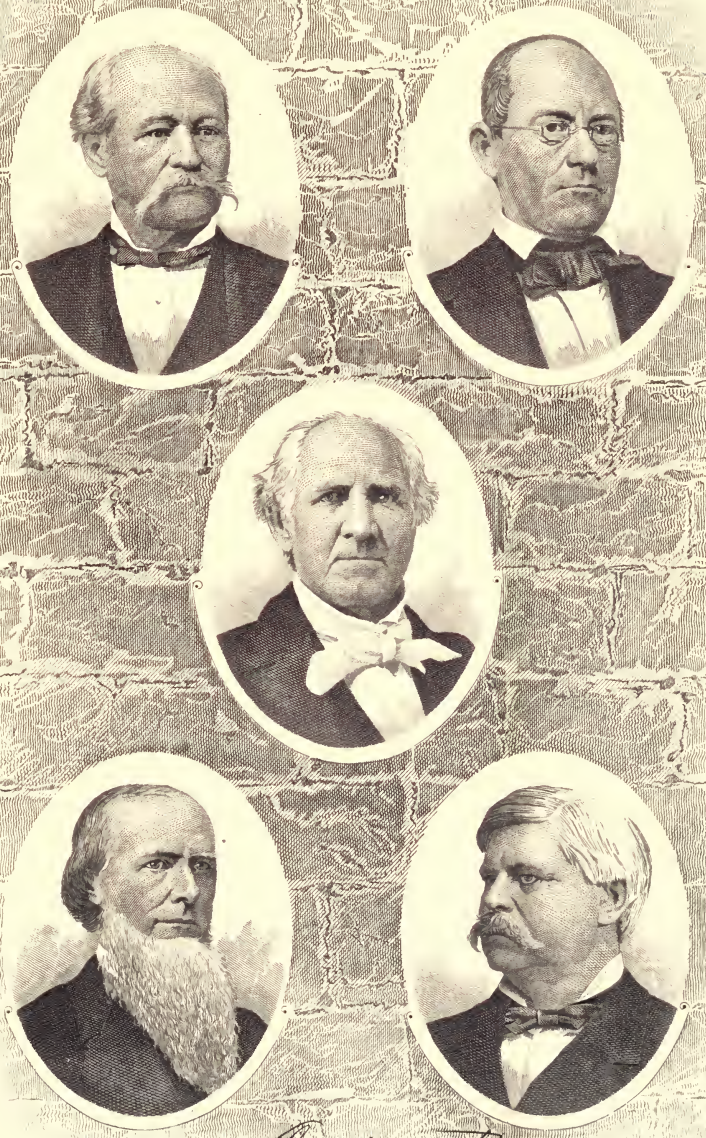
A large majority of the people of North Carolina were opposed to secession. They did not regard it as a constitutional right. They were equally opposed to a separation from the Union in resentment of the election of Mr. Lincoln. But the Governor, John W. Ellis, was in full sympathy with the secessionists. He spared no pains to bring the state into line with South Carolina. The legislature met on the 20th of November. The governor, in his message, recommended that the legislature should invite a conference with the Southern States, or send delegates to them for the purpose of securing their co-operation. He also recommended the reorganization of the militia, and the call of a state convention. Bills were introduced for the purpose of carrying these measures into effect. The Joint Committee on

Federal Relations reported a convention bill, but it was not acted upon. An appropriation of $300,000 for organizing and arming the militia was adopted in the Senate, but it failed to be acted on in the House of Commons. On the 22d of December, the legislature took a recess until the 7th of January. By that time the excitement had grown. On January the 8th, the Militia bill was adopted in the Commons.

On the 30th of January, a bill for calling a state convention was passed. It provided that no secession ordinance, nor one connecting the state with the Southern Confederacy, would be valid until it should be ratified by a majority of the qualified voters of the state. The vote of the people was appointed to take place on the 28th of February. The delegates were elected on the day named. A large majority of them were Unionists. But, at the same time, the convention itself was voted down. The vote for a convention was 46,671; against a convention, 47,333. The majority against it was 662. This majority against a convention, however, was no criterion of popular sentiment in regard to secession. The true test was the votes received, respectively, by the Union and secession delegates. The former received a majority of nearly thirty thousand. But the indefatigable governor was not to be balked by the popular dislike for secession. The legislature was called together in extra session on May 1. On the same day they voted to have another election for delegates to a state convention on the 13th of the month. The election took place accordingly, and the delegates convened on the 20th. On the following day the secession ordinance was adopted, and the Confederate Constitution ratified. To save time, and avoid further obstructions, the question of popular approval was taken for granted. On the 5th of June, an ordinance was passed for transferring the United States Arsenal at Fayetteville to the Confederate Government.

The Legislature of Tennessee met on the 6th of January. On the 12th, a bill for the calling of a state convention was passed. It was passed subject to the approval of the voters. The election took place on the eighth day of February. The people voted against holding a convention by 67,360, to 54,156.

In disregard of this vote of the people, however, the legislature, on May 1st, passed a joint resolution authorizing the governor to enter into a military league with the Confederate States. The league was formed. The Governor, Isham G. Harris, sent a message to the legislature, announcing the fact. He stated its terms. Messrs. Gustavus A. Henry, A. O. W. Totten, and Washington Barrow, on the part of the state, and Hon. H. W. Hilliard, on the part of the Confederacy, negotiated the league. It stipulated that until the state should become a member of the Confederacy, "the whole military force and military operations, offensive and defensive, of said state, in the impending conflict with the United States, shall be under the chief control and direction of the President of the Confederate States." It was



Sam. Houston

Isham G. Harris

J. A. Letcher.

Joseph E. Brown

Z. B. Vance

CONFEDERATE GOVERNORS.

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also agreed that the state would, as soon as it should join the Confederacy, turn over all public property it might acquire from the United States. The legislature ratified the league by decided majorities of both branches. These final proceedings took place on the seventh day of May. On the preceding day, the legislature put forth a declaration of independence. It was submitted to the votes of the people for ratification. This document waives the right of secession, as follows: "We, the people of the State of Tennessee, waiving an expression of opinion as to the abstract doctrine of secession, but asserting the right, as a free and independent people," declare that all the laws and ordinances by which Tennessee became a member of the Federal Union, "are hereby abrogated." The vote for separation was declared by the governor to be 104,019 for, and 47,238 against that measure. It thus appears that the Legislature of Tennessee, in declaring the separation of the state from the Federal Union, placed its action upon the ground of a revolutionary right, which all admit to be inalienable, if the cause be just. Upon such a question the aggrieved people must be the judge.

In nearly all the seceding states there were earnest and rational protests made against secession, by writers and speakers of intelligence and sagacity.

One of these trenchant criticisms held that it was no answer to say that the new constitutions were better in some of their provisions than the old. This might be, and in other respects they might be worse. The changes had been startling. A series of searching questions and answers thus states the opposing view with cogent vivacity: Was the purpose to enlarge the rights of the states? They have been curtailed. Was the object to strengthen and extend the institution of African slavery? It has been circumscribed, hemmed in. Was the object in setting up the new government to diminish the expenses? They have been increased. Was the object to lessen taxation? That object has failed; for where the expenditures were thousands, they will be millions. Was the object in tearing down the old government to secure the property-holder? The new government has not the strength to protect that the old one had. Was the object to enlarge the elective franchise and expand the rights of the individual members of society? The new government prescribes a qualification for electors in a state, whereas the old government left that entirely with the states. Was the object in demolishing the old and setting up the new government to increase the culture and growth of cotton? The heavy expenditures of the new polity, with the increase of taxation consequent thereon, will diminish the laborers, and the production will fall off.

The *quasi*-official and conventional utterances in the seceding states had, apparently, all the sanction of a successful revolution. Within the area of secession, the authority of the United States was thus extinguished, first by the action, voluntary or forced, of conventions representing the people and forming governments for practical ends, and next by the seizure of arsenals, mints, custom houses, forts, and navy yards. These acts gave evidence *de*

facto, if not *de jure*, of the existence of new governments. Peace, however, was looked for and kept until March, 1861, notwithstanding the efforts which the government established at Montgomery was making to consolidate its authority in the seceding states.

No one except an actor in the scenes of that time can understand the intense anxiety in relation to the first breach of the peace. The preliminary debates in Congress turn on the collection of duties, and the avoidance of menacing and irritating measures. Then, Fort Sumter is surrendered. Volunteers are called for. At once the Confederate States become militant and powerful. A blockade is announced by proclamation. Letters of marque and reprisal against the commerce of the United States follow a declaration of war by the Confederate Congress. It is a fight to the death between two opposing communities, with a line of hostility between them. But is it rightful secession or revolution? The result of the movement will decide.

When the special session of Congress is called on July 4, 1861, where are the representative men from the South? Not one is there to defend secession. Attempts are made to limit the design and define the cause of the war. The Crittenden resolutions are intended to keep the Union paramount above all other concernments,— certainly above those of slavery and state rights. The attempt of the zealots of the Republican party to force President Lincoln from his resolution on this subject fails. What he had written on the 14th of December, 1860, to Alexander H. Stephens, he steadily maintains. "Do the people of the South," he then asked, "really entertain fears that a Republican Administration would directly or indirectly interfere with the slaves?" He assures Mr. Stephens that the South would be in no more danger in this respect than they were in the time of Washington.

Resolutions pass both houses of Congress affirming the autonomy of the United States and declaring for its maintenance. They place the Union above all other objects, and when that is made secure the war is to end. But with the lapse of time the war goes on. The Democratic members of Congress again and again challenge debate in relation to the object of the war. The writer of this volume vindicated Mr. Lincoln's policy upon the stump in Ohio, and was returned in 1862, in a strong Republican district, upon that issue.

One of the whimsical excesses of secession, or vicissitudes of the war, is the partition of Virginia. Forty western counties of Virginia agree to secede and form a new state, without the consent of the old one! This is anomalous and unconstitutional. It is a new phase of secession, made by the war. It is vigorously opposed, but in vain. The first beginnings of reconstruction thus, and in the very midst of the war, come out of this disparting of Virginia. It is one of the scars made by the war. It remains to commemorate the policy of force. It inevitably led to the successful attack which was soon to be made upon state institutions, including slavery.

On the 1st of January, 1863, after three months' notice and much anxious avoidance, the President issues his Emancipation Proclamation, but only as a war measure, as he afterward maintained to the last. It sets free the slaves within the enemy's lines, as rapidly as the Federal arms move to the front, or open a way for the fugitives under the new military *habeas corpus*. This enfranchisement continues. But in the meantime the President holds that it is for the courts to determine the effect of the Proclamation.

The more audacious members of the Republican party, such as Thaddeus Stevens and those whom he led so vigorously, insisted that the Constitution was suspended within the Confederate lines by an act of war and not by secession. "Where," he exclaimed, "is the constitution of South Carolina?" "Why should members of Congress, or an Executive in Washington, be bound by a constitution that does not exist in that state?" In effect this was to say that the Constitution ceased to exist while the National Government existed. The theory of Mr. Sumner was not unlike that of Mr. Stevens. While he held that the outgoing states could not remove themselves from national jurisdiction until the war which they waged became successful, he held that, in the meantime, these states had become territories. Their statehood being forever gone, any conditions might be prescribed by Congress for the admission of these territories. How he would ascertain the boundaries of these territories, without admitting some constitutional basis for the secession ordinances, neither Mr. Sumner nor any of his political school has ever attempted to demonstrate. How could there be a territory of South Carolina?

The doctrine of the Northern Democrats, in and out of Congress, involved no such vindictive absurdities as that of Mr. Stevens and Mr. Sumner. The Democrats held that secession was unconstitutional, null, and void. Therefore, it could in no way impair the vitality of the Constitution. Secession was simply a denial of the power of the general government to exercise its Federal functions in certain states of the Union. It was an insurrection, no more, no less; and for the suppression of which the people and the states of the Union had clothed the general government with full authority and ample power. This power was not to be exercised rashly while peaceful measures might succeed. The Constitution might be denied any operation or be resisted by extremists North and South, but would it be thereby limited in its legal and political force? Nothing could curtail the scope of the Constitution except an absolute and permanent dismemberment of the Union of the states. The result of the insurrection could alone determine whether South Carolina was to remain a state of the Union, or to become severed from her Federal bond. If the general government should succeed in suppressing the insurrection, then, in contemplation of the Constitution and the laws of the land, her *ante bellum* relations to the Federal Union would continue. The fact that the extent of the insurrection and the feelings of human-

ity required secession to be suppressed in the mode of civilized warfare could not effect a political change in the Federal system. Such an effect, in a case of unsuccessful revolution was never conceived, much less asserted, by any authority on the science of civil government, until its violent assumption by the radical obstructionists of the Republican party. They alone gave their full sanction to the doctrine of secession. Secession drew the sword and died by the sword, and slavery was buried with it. Despite the horrors of a protracted civil war, and the still more violent suspension of constitutional vigor succeeding it under congressional reconstruction, all the machinations and devices of usurpers of power North and South failed to destroy even one member of the Federal body politic. So firmly fixed in the American mind is the theory of state and Federal government, that, at last, the people arose in their might and silenced all disputation over war results, by commanding the Federal hand to be withdrawn from the throat of sovereign states which were and always would be states of the Union.

. . . . . .

Who now will question the vitality of our political system? What element remains, to eat out the substance, sense, and virtue of the people, undo the work of the past, and dismantle our incomparable system of government? Are we again to become the prey of mercenary and corrupting officials? Nothing can destroy our system except when the greed of gain struggles toward the goal with the lust of power. The demoralization of the public service during the war and shortly after it, was to be expected. But long after that period, great and honored names were not ashamed of association with the bribe-giver and bribe-taker, and the reckless and avaricious lobby.

The elements and conditions which produced the usurpation of 1877 still exist in great force. We have the same timidity of wealth, the same cowardice of credit, and the same tenderness of trade, which then drowned the popular will by clamors for the revival of business. The rich bartered political rectitude for contentment with their gains. But for all that, are we to be rid of the rich? Shall there be no more bond-holders, no champagne revelers, no railroad kings, no sleek lobbies, no purchasable news-venders, no money-eyed princes, no men of fashionable clubs and soft attire? These cannot be abolished. Their evil influences must be restrained. The *impedimentum* cannot be left behind in the campaigns and contests for freedom, although it may hinder the march. As it must have its place somewhere, let that place be far in the rear of the column.

For purity of public conduct, we must turn to the principles and practice of the Union established by the fathers. But how long will that Union be worthy of maintenance, if the republican form of government gives place to a plutocratic usurpation of all the co-ordinate branches of the Federal Government? Has not wealth, or unscrupulous fealty to corporate power, been for many years the main, and often, the all-sufficient qualification for the high

offices of state — executive, legislative, and even judicial? What has brought about such a woeful, anti-republican condition of affairs? Is it not plainly the continuance of the extravagances of the war times, when the foundations of most of the present colossal fortunes were laid in great contracts and cemented with the blood, tears, and cruel taxations of the people? One would think that the American people, with an ancestry providentially guided here, with an inheritance so splendid, and with the example set them by the generations of patriotic men who have passed away, would still retain the freshness and purity of virtuous power. All the bounteous elements of sea and earth and sky would seem to beckon business men, legislators, judges, executives, and ministers of official grace and honor, away from the base fascination of hoarded pelf which dishonors to destroy our institutions. There must be more concern for the national character.

The recent election gives hope of better days and much reformation. America in her fresh hemisphere, in her first cycle of unity, with the vote, with the numbers, with the added wisdom and practical sagacity of her people, must clarify the political and social atmosphere, and declare for the new order of administration, else the light of her liberties may be extinguished. Let not progress and poverty march abreast in this, as in the older hemisphere. The American Republic must become an exemplar for all future republics which may be created by the achievements of free men. Now that the world is adapting itself to new developments of physical forces and moral resources, now that new boundaries are being made between the nations, now that new elements are startling kings and kaisers, and giving fleet coursers to civilization by the vapor of water and the spark of lightning, let progress and prosperity march hand in hand on this continent. Let us not prove recreant to the demands of this new order. National wealth is not always the evidence of national prosperity, nor does great industrial progress always imply corresponding happiness among those who develop it. If negro slavery was an unjust appropriation of the rewards due to labor, it behooves the people to learn wisdom from the overthrow of that institution.

Let progress be in the paths of peace, humanity, and justice, and toward the advancement of real liberty and mutual industry. Let the torch of patriotism shine out upon the shoals and reefs where the wreckers would despoil the Ship of State, so that free, unbiased as the winds and waves, she may sail on forever, freighted with the hopes and the happiness of an upright people. Let those who shall hereafter direct her course, be as the elect of God — yea, even the salt of the earth.

CHAPTER VII.

THE FINANCES FOR THE WAR — THE MEXICAN WAR FINANCES — THE REVOLUTIONARY WAR FINANCES — STATE AND CONTINENTAL BILLS OF CREDIT — EARLY REVENUE RESOURCES — CUSTOMS, EXCISES AND DIRECT TAXES — THE CIVIL WAR DEBT — THE ISSUES OF BONDS AND TREASURY NOTES — UNITED STATES NOTES — LEGAL TENDER NOTES — DUTIES ON IMPORTS UNDER THE MORRILL TARIFFS — THE INTERNAL REVENUE SYSTEM — THE PLAN FOR A NATIONAL PAPER CURRENCY — ITS ORIGIN AND CONSTITUTIONALITY — AMERICAN ABILITY TO SUSTAIN TAXATION.

PRIOR to the war for the preservation of the Union, the country had suffered no considerable strain upon its resources for a period of forty-five years. Almost two generations of men had come and gone since the government had found it necessary to meet the demands upon the treasury by a resort to direct or internal taxation. The war with Mexico had imposed no such necessity. It was sufficient for that emergency to borrow money in anticipation of ordinary taxes. We then issued some millions of treasury notes. These were afterwards funded, or received back in payment of duties on imports. The receipts under the Democratic revenue tariff of 1846, during the ten years following, were almost sufficient to pay the current expenses of the government and reduce the debt incurred in that war to less than a fifth of its original amount. In 1846, before the war commenced, the public debt was $15,550,000. In 1849, the year after its close, the debt was $63,000,000; and in 1851 it had risen, probably as a consequence of the war, to $68,304,000. It may therefore be assumed that the cost of the Mexican War, over and above the current revenue which was paid out in that period, was not in excess of $52,754,000. In 1857 the public debt was reduced to $28,700,000; or only $13,149,000 more than it was in 1846. These figures afford evidence of good financial management.

In 1846 it became necessary, in order to carry on the war with Mexico, either to increase the taxes or borrow money. The party then in power, true

to its traditions and policy, preferred the latter mode. In this it displayed wisdom. The resources of the country were being rapidly developed, notwithstanding the apparent embarrassments of the Federal treasury. Population was steadily increasing. Money was in demand in all the industries, and employment was open for labor in every field. Under these conditions, it was deemed better statesmanship to discount the income of the future, which must grow with the general prosperity of the people, rather than to retard enterprise by taxation. Taxes, like governments, are necessary evils. It has always been a favorite maxim with the writer, that the less the people have of either evil, consistently with the general welfare, the better it will be for themselves and their industries. It is not to be understood that the theory that a public debt is a public blessing is here admitted. Circumstances will, at times, render a mean course between debt and taxation the better policy; but this course should always be steered on a line where the industries — the life-blood of the nation — will be safe from wreck, and where no man's goods shall be *jettisoned* for another's. In a government like ours, intended as it is to secure to all citizens equal civil, political, and industrial rights, privileges, and opportunities, it must be apparent to every one possessed of sound reason, that the legislative fostering of any one industry or private enterprise must correspondingly retard all other means of progress and prosperity. Forced plants are seldom vigorous. Unnecessary taxation is a burden that should be avoided. This is a Democratic maxim of Federal administration. Acting on this maxim, Congress, instead of increasing the taxes to carry on the Mexican War, passed an act on July 22 ,1846, authorizing the issue of ten millions in notes, accompanied by a loan act at six per cent. On the 28th of January, 1847, an act was passed authorizing the issue of twenty-three millions in notes at six per cent. This act was accompanied by authority to redeem them by the issue of stock running for a term of years, at the same rate of interest. In March, 1848, a sixteen million loan was authorized, at six per cent.

During the Revolutionary War, the Congress had no real fiscal power. Such as it had was dependent upon the patriotism and good faith of the people. The Congress then depended on the states for the enforcement of its ordinances. It had but little legislative capacity. It could impose no taxes. Its function in this regard was but little more than a right to initiate or recommend measures. It could declare how much money was necessary to carry on the war during the ensuing year, and it could apportion the quotas of that amount among the states; but it had no power to collect them. If any state failed to pay its quota there was no remedy save entreaty. The military authority of the Congress was something more tangible. The right to call for troops and to appoint the commander-in-chief and other officers carried with it some real power; but not such power as could be legitimately used for the enforcement of legislative ordinances.

This was a defective system of government. The result was that the struggle for Independence was protracted. The war was carried on to its consummation by promises to pay, rather than with money. Great efforts were made to borrow from foreigners. The chief business of our representatives abroad was to negotiate loans. The total amount of the loans negotiated by them during the struggle was only a trifle above ten millions. It was stated by Hamilton, in his report submitted to the House of Representatives on Jan. 14, 1790, at $10,070,307. On this the arrears of interest amounted to $1,640,071.62. The domestic debt of the Union, including $13,000,000 of interest overdue, amounted to $40,414,085.94. The debts of the states were assumed to the amount of $21,500,000. Adding to these items the unliquidated part of the domestic debt, which consisted chiefly of Continental bills of credit, estimated in the report at $2,000,000, the total debt on the 31st of December, 1789, was $75,624,464.56. The actual debt a year later was reported at $75,463,476.52.

The paper currency called bills of credit, issued by Congress during the war, and before the adoption of the Constitution, amounted to the sum of nearly two hundred and fifty millions; and the aggregate of the bills issued by the states amounted to $209,524,776. Of the latter issue Virginia was responsible for $128,441,000; North Carolina for $33,325,000, and South Carolina for $33,458,926, thus leaving only $14,299,850 for the other states.

About half of the bills of credit issued by the Congress of the Confederation were redeemed by new bills, at the rate of forty of the old for one of the new issue. These last were assumed to be at par with silver, and were receivable as such by the Congress for the taxes which were apportioned among the states. Mr. Jefferson, who was in France much of the time, was mistaken in saying that "very little of the money [old bills] was brought in." He states that in 1780 the old bills had fallen in value, compared with silver, to seventy-five for one, when they went out of circulation north of the Potomac. In Virginia and North Carolina, these bills continued to circulate a year longer. By that time they had fallen to one thousand to one; "and then," Mr. Jefferson adds, "the paper expired, as it had done in other states, without a single groan. Not a murmur was heard on this occasion among the people. On the contrary," said he, "universal congratulations took place on their seeing this gigantic mass, whose dissolution had threatened convulsions which should shake their infant confederacy to its centre, quietly interred in its grave."

The act of Congress which authorized the exchange of the new for the old bills came near causing a breach with the French government. The Count de Vergennes earnestly protested against it. He authorized the French minister to this government to remonstrate against its application to French subjects who were holders of the old bills. John Adams, then an unrecognized minister, sent over to be at hand, ready to negotiate a peace, and wait-

ing in Paris for the opportune moment to arrive, gave great offence to the Count by defending the justice and necessity of the measure. Dr. Franklin, the resident minister at the French court, professed to concur with Vergennes that the repudiation should not apply to French subjects. But he was too wise not to foresee that if this were to be allowed, the effect of such a discrimination would be that Frenchmen would buy up all the bills. Dr. Franklin communicated to Congress the fact that the course of Mr. Adams, who had published his opinions in a newspaper, had given offence to the French government. Congress censured Mr. Adams for his uncalled for and pertinacious defense of its ordinance; but, nevertheless, the ordinance was adhered to. This incident was the cause of a permanent breach between Franklin and Adams.

In order to pay off the Revolutionary debt, Hamilton devised a Federal system of internal revenue. It consisted of an excise upon liquors distilled within the United States. From this source, in the course of a dozen years, about seven millions were raised. In 1799 a direct tax was imposed by Congress upon lands and houses. This yielded about two millions of dollars, of which about one million and a half was collected in the three years following. But at this era the great and permanent reliance for a revenue was on customs. During Washington's administration these amounted to nearly six millions per annum. This was yielded from a very low tariff. Before the close of Jefferson's administration the revenue from this source had risen to sixteen millions.

The recuperation from our earlier financial embarrassments was easy and rapid. Under the long sway of the Democratic party, there was a minimum of restraint by taxation, or other measures tending to foster monopolies, which left the people free to avail themselves of the rich resources of the domain that their fathers had won and bequeathed to them as an heritage forever. They waxed great in numbers, and prosperous beyond comparison. Their fame spread abroad among the nations. Immigration poured in upon them its waves of industrious millions to partake of their freedom and to develop the fatness of the land. Peace smiled upon them, and plenty abounded.

When the Southern States appealed to the *ultima ratio*, the American people had no more conception of the financial exploits they were about to perform than they had of the extent and duration of the military operations that followed. Even their statesmen had no adequate idea of the resources of this country for raising revenue. They had not imagined that the United States excelled every country in the world in capacity to raise revenue from indirect taxes. Wherein is this capacity? The answer is now obvious: Americans consume more of the luxuries of life than any other people. No one would have believed in 1860 that in 1866, after four years of devastating war, the people of this country could pay yearly $176,000,000 in taxes, at

enormously protective rates, on foreign goods imported, and $309,000,000 in taxes on domestic articles consumed; or that a public debt of $2,381,500,000, bearing interest to the amount of $151,000,000, could be paid off at the rate of $100,000,000 per annum; or that under such a debt the rate of interest could be gradually reduced, by refunding, in the course of eighteen years, from five, six, and seven and three-tenths per cent. to three per cent. Yet all this has been accomplished. Our revenue, war debt, and interest reached these figures. In place of paying interest now to the extent of $150,977,697.87 annually, as in 1865, we pay only $47,926,392.50. The latter sum was paid during the fiscal year ended June 30, 1884, upon a debt reduced to $1,226,563,850. This was all that then remained of the interest-bearing debt!

The total debt, Aug. 31, 1865, less cash in the treasury, was $2,756,431,571.43. But of this sum, $374,901,276.47 consisted of United States notes, fractional currency, and some other non-interest-bearing obligations; so that the interest-bearing debt was at that date $2,381,530,294.96. Of this sum there had been paid off, up to June 30, 1884, $1,154,966,444.96. Probably there will be some slackening in the rate of redemption; but there is little doubt that at the end of the present fiscal year (1885), more than half of the original interest-bearing debt will be canceled.

The non-interest-bearing debt on June 30, 1884, consisted, as stated by the Secretary of the Treasury, of the following items:

Old Demand Notes of 1861 and 1862,		$58,440 00
Legal Tender Notes of 1862 and 1863,		346,681,016 00
Certificates of Deposit, 1872,		12,385,000 00
Gold Certificates issued under Acts of 1863 and 1882,		98,392,660 00
Silver " " " " " 1878,		119,811,691 00
Fractional Currency, 1862, 1863, and 1864,		6,980,061 31
Aggregate non-interest-bearing debt,		$584,308,868 31
To this sum must be added on which interest had ceased;	$19,656,205 26	
And for accrued interest,	11,507,240 41	31,163,445 67
Making the total non-interest-bearing debt,		$615,472,313 98
Adding to this the interest-bearing debt of that date,		1,226,563,850 00
Made a total debt of,		$1,842,036,163 98
Less cash in the treasury,		391,985,928 18
Shows the actual debt on that date to have been,		$1,450,050,235 80

The $346,681,016 in legal-tender notes seems to be circulating as a more

acceptable currency than gold. These notes may not be called in for years to come, if ever, except for the purpose of replacing such bills as are worn out.

There were many curious and interesting developments attending the vast expansion of American financial operations since the beginning of the Civil War. Among these may be mentioned the greatly increased facility of borrowing, and the readiness of foreigners as well as Americans to lend their money to this government at rates of interest far below those of the ante-bellum days, when the public debt was scarcely a twentieth of the amount it has been of late years. It is not necessary, in order to find a reason for this confidence, to go back to an early date, when the country was sparsely peopled and poor, and when the republican form of government was regarded as a doubtful experiment. It is sufficient to refer to some of the events which preceded the late war, when the United States had already assumed their acknowledged and exalted place among the nations of the world.

The financial collapse of 1837 caused a considerable falling off of imports. The sales of the public lands also decreased far below those for the two preceding years. These sales and the customs were then almost the only sources of revenue. The decrease embarrassed the government. It became necessary to resort to the issue of ten millions in treasury notes, bearing six per cent. interest. The act authorizing that issue was passed Oct. 12, 1837. In May, following, it became necessary to authorize a reissue of the notes. These temporary loans were renewed from year to year, until July, 1841. Then a permanent six per cent. loan was authorized for the purpose of funding the treasury notes, which ran for only one and two years. In 1842 additional six per cent. temporary notes were authorized; and in 1843 provision was made for their reissue and funding at the same rate of interest. The Mexican War debt followed; but, as already shown, all liabilities were easily liquidated.

Then came the financial crash of 1857. Like its predecessor of twenty years before, it caused a falling off in imports and revenue. On December 3, of that year, Congress authorized the issue of twenty millions in treasury notes at six per cent. These were reissued from year to year, until July 1, 1860. On June 14, 1858, a twenty million loan at six per cent. was authorized; and the act of June 22, 1860, authorizing a six per cent. loan of twenty-one millions is traceable to that crash. It had no reference to the then approaching war. It was not preparatory for that calamity, which, while feared by many, could be known to no one. Neither was the probability of war so menacing as to affect the public credit. The offer of six per cent. was only a conformity to usage in such transactions. The loss in 1858 and 1859 of revenue from customs and sales of public lands was very considerable, while the scale of expenditure, owing to several causes, had increased.

Hence the recourse to loans. The ten millions of six per cent. treasury notes authorized by the act of Dec. 17, 1860, were called for by the same circumstances.

Three days after the passage of the last mentioned act, the State of South Carolina passed the secession ordinance. She was soon followed by the Gulf States. Feb. 8, 1861, another loan was authorized, not to exceed twenty-five millions, in order to meet the exigencies of the public service, and for the redemption of the treasury notes then outstanding. The interest was, as usual, restricted to six per cent. March 2, following, another act was passed authorizing a ten-million loan, at the same rate of interest.

The first great financial measure of the war that ensued, was the act of July 17, 1861. It was passed at the first session of the Thirty-seventh Congress, with only five dissenting votes in the House. It authorized the Secretary of the Treasury — not the President, according to the usual form — to borrow, on the credit of the United States, within twelve months, a sum not exceeding two hundred and fifty millions of dollars, or so much thereof as he might deem necessary for the public service. He was authorized to issue coupon bonds, registered bonds, or treasury notes, in such proportions of each as he might deem advisable. The bonds were to bear interest at a rate not exceeding seven per cent., payable semi-annually. They were not redeemable for twenty years. After that period they were redeemable at the pleasure of the United States. The treasury notes were authorized to be of any denomination fixed by the Secretary of the Treasury, not less than fifty dollars. They were to be payable three years after date of issue, with interest at the rate of seven and three-tenths per centum per annum, payable semi-annually. The secretary was also authorized to issue treasury notes of less denominations than fifty dollars, bearing interest at the rate of three and sixty-five hundredths per centum. These were payable one year after date, to be exchanged for coin, or paid out for salaries and other public dues. This act conferred upon the Secretary of the Treasury the whole direction of the proceedings necessary to carry out its purpose. It conferred discretionary power in many cases, including that of assigning the amount of compensation to be paid to persons employed in receiving the subscriptions. This act was prepared and forced through the House, with only one hour allowed for debate, by Mr. Stevens, of Pennsylvania, the chairman of the Committee of Ways and Means. The act of August 5, of the same year, authorized the issue of six per cent. twenty-year bonds. These were to be exchangeable for the seven-thirty treasury notes. There was also a provision for issuing six per cent. twenty-year bonds, instead of the seven per cent.'s authorized by the former act. The act of August 5 originated in the Senate and was supplementary to that of July 17. When it came to the House, Mr. Stevens moved certain amendments, some of which were adopted. One of them proposed the issue of treasury notes at nine per cent. This was modified so as to fix the rate of interest at seven and three-tenths.

The act of Feb. 25, 1862, laid the foundation of the present financial system of this country. It declared United States notes a legal tender for all debts, public and private, and made them receivable in payment of internal taxes. It established the sinking fund. It is one of the most important measures ever adopted by Congress, or by any legislative body. It authorized the issue of one hundred and fifty millions in notes on the credit of the United States, not bearing any interest, payable to bearer at the Treasury of the United States, and of such denominations as the secretary might deem expedient, not, however, less than five dollars each. Fifty millions of these notes were intended to replace the demand treasury notes authorized by the act of July 17, 1861. The amount of the two kinds of notes was not to exceed one hundred and fifty millions. These notes are described in the act, as "United States Notes," in contradistinction from those bearing interest, which are in every act styled "Treasury Notes." It declares that these United States notes "shall be receivable in payment of all taxes, internal duties, excises, debts and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, legal and private, within the United States, except duties on imports, and interest as aforesaid." Holders of these notes might deposit them with the United States Treasurer or any of his assistants, and have them funded in bonds of fifty dollars, or multiples of fifty.

The same act authorized a loan of five hundred millions to enable the Secretary of the Treasury to fund treasury notes and other floating debts. The bonds were to be either registered or coupon in form. They were to be redeemable at the pleasure of the United States after five years, and payable twenty years from date.

The fifth section of the act required all duties on imported goods to be paid in coin, or in notes payable on demand theretofore authorized to be issued, and by law made receivable in payment of public dues.

The coin so received was to be set apart as a special fund, to be applied as follows:

First. To the payment of the interest on the bonds and notes of the United States.

Second. To quote the language of the act: "To the purchase or payment of one per centum of the entire debt of the United States, to be made within each fiscal year after the first day of July, eighteen hundred and sixty-two, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct."

Third. The residue to be paid into the Treasury of the United States.

Good faith required that the demand notes, amounting to nearly fifty mil-

lions, should be received for all taxes and dues. This necessity would for a time reduce the amount of specie receivable from customs. Therefore, on the 17th of March, 1862, an act was passed authorizing the Secretary of the Treasury to purchase coin with any of the bonds or notes of the United States, at such rates and upon such terms as he might find expedient. By the same act the demand notes were made receivable and a legal tender, in like manner as the notes authorized by the act of Feb. 25, 1862.

The act of July 11, 1862, authorized the Secretary of the Treasury to issue, in addition to the amounts theretofore authorized, one hundred and fifty millions in United States notes, legal tender, not bearing interest. Not more than thirty-five millions of these were to be of denominations less than five dollars; and no note was to be issued for the fractional part of a dollar. The Secretary was authorized to receive these notes in exchange for the six per cent. bonds authorized by the act of Feb. 25, 1862, which were redeemable after five years at the pleasure of the government, and after twenty years at the pleasure of the holder. These bonds were, for convenience, styled "Five-twenty-sixes." The United States notes, or legal tenders, received for such bonds could be reissued.

On March 3, 1863, Congress passed an act to provide ways and means for the support of the government, which authorized the Secretary of the Treasury to borrow three hundred millions of dollars for the current fiscal year, and six hundred millions for the year following. For this loan he was empowered to issue coupon or registered bonds, payable in coin at the pleasure of the government after such periods as might be fixed by the secretary, not less, however, than ten nor more than forty years from date. These bonds were to be of denominations not less than fifty dollars, and were to bear interest at a rate not exceeding six per centum per annum. They might be disposed of for lawful money,— that is to say, legal tender United States notes — for certificates of indebtedness, or for treasury notes — that is to say, notes bearing interest, and running for a term of years.

This act further authorized the issue of four hundred millions in treasury notes, bearing six per cent. interest in currency, and payable within three years. They were, to quote the language of the act, to be disposed of "on the best terms that could be obtained," and were payable to public creditors who were willing to receive them at par. These treasury notes were made a legal tender to the same extent as United States notes for their face value, including interest. These were also exchangeable for United States notes. The secretary was authorized to issue one hundred and fifty millions in United States notes, that is to say, legal tenders, to be exchanged for these treasury notes, and for no other purpose. It is probable that the issue of four hundred millions in treasury notes so authorized was intended for the purpose of paying off the floating debt; as some creditors who had no immediate use for their money might prefer such notes to legal tenders.

A joint resolution of Jan. 17, 1863, authorized the Secretary of the Treasury to issue one hundred millions in legal tenders to pay off the army and navy. The act passed on March 3, 1863, in its third section increased the appropriation for this purpose to one hundred and fifty millions. This act required the holders of United States notes issued under the acts of Feb. 25, 1862, and July 11, 1862, to present them for the purpose of exchanging them for bonds, on or before the first day of July, 1863. The right to make the exchange after that date would cease. As heretofore stated, these two acts authorized the issue of three hundred millions. The effect of the act of March 3, 1863, was to draw in a large amount of outstanding treasury notes which it was lawful to reissue. Section four of this act authorized the issue of fifty millions in Fractional Currency, in lieu of the postage and revenue stamps issued as currency under an act passed July 17, 1862. The fifth section authorized the deposit of gold coin and bullion with the Treasurer or any assistant treasurer, in sums not less than twenty dollars, and the issue of certificates therefor in denominations the same as United States notes. It authorized the issue of these certificates in payment of the interest on the public debt; but it limited the amount of them to a sum not greater than twenty per cent. of the amount of coin and bullion in the treasury. The certificates were made receivable in payment for duties on imports.

The act of March 3, 1864, which was supplementary to the act of March 3, 1863, empowered the Secretary of the Treasury to borrow, from time to time, on the credit of the United States, not exceeding two hundred millions of dollars during the current fiscal year, in lieu of so much of the loan authorized by the last mentioned act, and to issue therefor coupon or registered bonds of the United States, bearing date March 1, 1864, or any subsequent date, redeemable in coin at the pleasure of the government after any period not less than five years, and payable at any period not more than forty years from date. These bonds were to bear interest at a rate not exceeding six per cent. They might be disposed of for lawful money (legal tenders), or, at the discretion of the secretary, for treasury notes, certificates of indebtedness, or certificates of deposit. They were exempted from state and municipal taxation. The power of Congress to grant this exemption has been sustained by judicial sanction.

The joint resolution of March 17, 1864, authorized the Secretary of the Treasury to anticipate the payment of interest on the public debt by a period not exceeding one year. He was further authorized to dispose of any gold in the Treasury not necessary for the payment of interest on the public debt, if the obligation to create the sinking fund according to the act of February, 1862, would not be impaired thereby.

On the 30th of June, 1864, an act was passed authorizing the Secretary of the Treasury to borrow four hundred millions of dollars, and to issue therefor coupon or registered bonds, redeemable in coin after forty years and

not under five, and bearing not exceeding six per cent. interest in coin. These bonds might also be disposed of for lawful money, certificates of indebtedness, or certificates of deposit. The secretary might, at his discretion, issue in lieu of an equal amount of the bonds so authorized, and as a part of said loan, not exceeding two hundred millions of dollars in treasury notes, payable at any time within three years; or, if thought expedient, redeemable after three years from date, and bearing interest in lawful money at the rate of seven and three-tenths per cent.

The act declared, in respect to these notes, that—"such of them as shall be made payable, principal and interest, at maturity, shall be a legal tender to the same extent as United States notes for their face value, excluding interest, and may be paid to any creditor of the United States at their face value, excluding interest, or to any creditor willing to receive them at par, including interest; and" that "any treasury notes issued under the authority of this act may be made convertible, at the discretion of the Secretary of the Treasury, into any bonds issued under the authority of this act." Treasury notes and United States notes issued under former acts might be redeemed and canceled by order of the secretary; and he might substitute for them the notes authorized by this act, or other United States notes. It was provided that the total amount of bonds and treasury notes to be issued should not exceed four hundred millions of dollars, in addition to the amounts theretofore issued. The act further provided that the total amount of United States notes (legal tender) issued, or to be issued, should never exceed four hundred millions of dollars, and such additional sum, not exceeding fifty millions of dollars, as might be temporarily required for the redemption of temporary loans. In addition to these limitations, the act provided that no treasury note bearing interest issued under it would be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated or intended to circulate as money.

The act of March 3, 1865, authorized the Secretary of the Treasury to borrow, in addition to the amounts theretofore authorized, any sums not exceeding in the aggregate six hundred millions of dollars, and to issue therefor bonds or treasury notes. The bonds were to be made payable at any period not exceeding forty years, and not less than five years. The principal and interest of this issue of bonds and treasury notes might, at the discretion of the secretary, be made payable in coin, or in other lawful money. The rate of interest in coin was not to exceed six per cent.; and when not payable in coin it was not to exceed seven and three-tenths per cent. These bonds and treasury notes might be disposed of in the United States or elsewhere, for coin or for lawful money, and were exempted from taxation by state or municipal authority. This was the last act which authorized a loan, except for the purpose of refunding.

On the 18th of March, 1869, an act was passed "to strengthen the pub-

lic credit." It solemnly pledged the faith of the United States to the payment in coin or its equivalent, of all the obligations of the United States not bearing interest, known as United States notes, and also of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation had expressly provided that the same might be paid in lawful money, or other currency than gold and silver.

On the 12th of July, 1870, an act was passed providing that fifty-four millions of dollars in notes for circulation might be issued to the national banks in addition to the three hundred millions "authorized by the act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

To provide for the interest of the debt to be incurred during the war, as well as to support the current expenses of the government, it was thought necessary greatly to increase the duties on imports.

The act of March 2, 1861, was passed before hostilities had commenced, but after South Carolina, Georgia, and the Gulf States had passed their ordinances of secession. It was introduced in the preceding December. It was so quickly superseded by the act of August 5, which was passed at the extra session of the next Congress, that there was no time to estimate its effects upon the revenue. These acts imposed nearly double the rates of duty that were exacted by the tariff act of 1857. Tea and coffee were now among the dutiable articles. The imports during the fiscal year 1861–'62 fell off nearly a hundred millions; but the higher duties imposed increased the revenue over that of the preceding fiscal year by almost seven and a half millions. At no time during the war did the amount in value of the imports come up to the figures of the fiscal year 1859–'60, notwithstanding the immense sums of money that were being disbursed by the government. Nevertheless, after July 1, 1862, the receipts from customs revenue steadily and enormously increased over those of the fiscal year 1859–'60. Our manufacturers had no reason to complain of the financiering that brought this about. They fattened on the carnage. While it is true that labor was also well rewarded, it is no less true that reactionary economy fell almost solely on its shoulders. Whether Democratic administration will lighten this burden, remains to be seen. Bad management can alone prevent the relief that strict and impartial adherence to Democratic policy would bring.

The following table will present in a small space, the amount of imports, the duties collected, and the rates of duty, for the whole period from 1860 to 1870. Duties began to be lowered in the latter year upon some articles which were peculiarly regarded as objects of war taxes. It is proper to preface this table with the statement that several acts were passed between the years 1861 and 1868 by which the rates of duties were increased or modified.

Years.	Total Imports.	Amounts Collected in Duties.	Average ad valorem Rates.	
			Dutiable.	Free and Dutiable.
	Dollars.	Dollars.	Per Cent.	Per Cent.
1860	336,282,485	52,692,421	19.67	15.67
1861	274,656,325	39,038,269	18.84	14.21
1862	178,330,200	46,509,215	36.20	26.08
1863	225,375,280	63,729,203	32.62	28.28
1864	301,113,322	96,465,957	36.69	32.04
1865	209,656,525	80,635,170	47.56	38.46
1866	423,470,646	177,056,523	48.35	41.81
1867	381,041,764	168,503,750	46.667	44.559
1868	344,873,441	160,532,779	48.696	46.557
1869	406,555,379	176,557,584	47.365	44.761
1870	419,803,113	191,513,974	47.156	44.919

It would be tedious and unprofitable to state in detail the changes made in the rates of duties. The tabulated figures indicate the tendency to higher or lower duties with sufficient clearness.

In 1870 considerable reductions were made in the duties on a number of articles, the principal of which were on tea, coffee, sugar, molasses, fruits, spices, drugs, spirits and wines, and, *mirabile dictu!* iron in pigs and old scrap. The reduction in the duties on tea was from twenty-five cents to fifteen cents per pound, estimated to be equal to forty per cent. On coffee, from five cents to three cents per pound, equal to forty per cent. On sugar of the lower grades, from three cents per pound to an average of two, equal to thirty-three and one-third per cent. On clarified sugars, from three and a half and four cents per pound, to two and three-fourths and three and one-fourth cents per pound, equal, respectively, to twenty-one and three-sevenths, and twelve and a half per cent. The reduction in the duties on spices ranged from thirty-three and one-third to seventy-five per cent. On brandy the reduction was from three to two dollars per gallon, or thirty-three and one-third per cent. On spirits from grain, twenty per cent. On pig and old scrap iron, about twenty per cent.

The following table shows the effect of these reductions on the imports and revenues:

Years.	Total Value of Imports.	Duties Collected.	Average ad valorem Rates.	
			Dutiable.	Free and Dutiable.
	Dollars.	Dollars.	Per Cent.	Per Cent.
1871	505,802,414	202,446,673	44.049	40.472
1872	610,904,622	212,619,105	41.468	37.939

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An act passed on May 1, 1872, placed tea and coffee on the free list; and another, passed on June 6 of the same year, reduced the duties on a number of articles, and placed many others on the free list.

The following figures will show the result of these and the previous reductions:

Years.	Total Value of Imports.	Duties Collected.	Average ad valorem Rates.	
			Dutiable.	Free and Dutiable.
	Dollars.	Dollars.	Per Cent.	Per Cent.
1873	624,689,727	184,929,042	38.149	27.886
1874	550,556,723	160,522,285	38.610	28.288

It should be remembered that the average rate of customs paid on the dutiable goods is the true test of the character of the tariff; since most of the articles on the free list are placed there more for the benefit of the manufacturers than for the good of the consumers,—they are articles which enter into their manufactures. Even under a "tariff for revenue," every article which is placed upon the free list increases the necessity for higher duties on others. The same is true of a "protective" tariff.

In 1874 reductions and modifications were made in the customs duties, with the following results:

Years.	Total Imports.	Duties Collected.	Average ad valorem.	
			Dutiable.	Dutiable and Free.
	Dollars.	Dollars.	Per Cent.	Per Cent.
1875	518,846,825	154,554,983	40.694	29.368
1876	445,938,766	145,178,603	44.805	31.249
1877	438,518,130	128,428,343	42.954	29.199
1878	422,895,034	127,195,159	42.815	29.012
1879	433,679,124	133,395,436	44.954	30.366
1880	656,262,441	182,747,654	43.563	29.121
1881	624,213,229	193,800,880	43.253	29.787
1882	707,332,049	216,138,916	42.706	30.178
1883	703,565,144	210,637,293	42.646	30.055

The Tariff Act of March 3, 1883, was passed in pursuance of the information collected by a Tariff Commission which was previously created by act of Congress. This act proposed to make tariff reductions amounting to twenty per cent. The following figures for the fiscal year ended June 30, 1884, show how this promised reduction was carried out:

The total amount of goods imported was, . .	$667,697,693
Of which the free list embraced, ...	209,884,184
And the dutiable list, ...	457,813,509

The customs duties collected on this latter sum amounted to $190,413,849. This was at the average rate of 41.591 per cent. The average rate per cent. on the dutiable imports of 1883 was 42.646 per cent. It appears, therefore, that the reduction made by the Tariff Act of March 3, 1883, instead of being twenty per cent., was one per cent. and a fraction so small as to be unworthy of notice — that is to say, 1.055. This slight reduction in taxes is the measure of the relief which the Tariff Commission gave to the people!

Another resource for meeting the extraordinary demands of the war, and its debts upon the treasury, was that by which the Congress was empowered to levy Direct taxes and Excises. Pursuant to this constitutional power, Congress, by certain sections of the Tariff Act of August 5, 1861, levied a direct tax of twenty million dollars, and apportioned it among the states in proportion to their representation in Congress. This levy, even for the first year, was never fully carried out. Congress after postponing its enforcement from year to year, at length repealed it, the Southern States being in arrears. It has been proposed to return the money collected under it to the states, or to the people.

Some excise legislation was adopted early in the war period, but the Internal Revenue system was not regularly established prior to July 1, 1864. By the act of June 30, 1864, and subsequent acts, taxes were imposed on the sale, consumption, and production of a great variety of domestic manufacture, such as distilled spirits, malt liquors, tobacco, textile fabrics, hardware, wooden ware, drugs, cosmetics, and even lucifer matches, and farm products. Banking capital, circulation, and deposits, and incomes of individuals and corporations were also taxed, and a long schedule of documentary stamp duties concluded the array.

The revenue from these excise duties during the first year was $36,158,000. For the fiscal year 1864, the yield was $109,526,000. The greatest income from this source was in the year 1866, when it rose to the enormous sum of $310,906,000. After that year Congress began to repeal or reduce these taxes. If the system had been maintained at the rates of 1866, the revenue therefrom would probably be twice as great now as it was that year. All these excises have been repealed, except those on the manufacture and

sale of distilled spirits, malt liquors, and tobacco, and a nominal tax on bank circulation. Nevertheless, the revenue from these sources continues to yield from one hundred to one hundred and twenty millions yearly. This amount, with the revenue from customs, has for some years past created a surplus, over the necessary expenditures of the government, of about one hundred millions per annum. No party that maintains such a surplus revenue can be credited with statesmanship. It has been proposed to abolish the internal revenue, but this is the least burdensome of our taxes.

Perhaps the most noteworthy financial feat of the civil war period, was the establishment of the national bank system. On February 25, 1863, an act was passed, entitled "An Act to provide a National Currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof." By this act a Bureau of Currency was established in the Department of the Treasury, with a chief styled the Comptroller of the Currency. Banking associations were provided for, to consist of not less than five persons, who were required to file a certificate, signed and sealed, specifying:

1. The name of the association.
2. The place proposed for carrying on business.
3. The amount of capital, and the number of shares. (The capital not to be less than fifty thousand dollars; and in cities of ten thousand inhabitants or more, not less than one hundred thousand dollars.)
4. The names and places of residence of share-holders, and the number of shares held by each.
5. The time when the association was to commence business.
6. That the certificate was made in order to secure the benefits of the act.

The law required that at least thirty per cent. of the capital of these associations must be paid in before they commenced business; and the residue in bi-monthly installments. The stock of delinquent share-holders was to be sold; and all share-holders were made liable for twice the amount of their shares.

These banking associations might own the real estate on which they transacted their business. They might also take mortgages to secure loans; and buy real estate at execution sales to save debts. Before beginning business they were required to transfer and deliver to the United States Treasurer, interest bearing bonds of the United States to an amount not less than one-third of the capital stock paid in.

The associations thus constituted were entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned, equal in amount to ninety per centum of the

current market value of the United States bonds so transferred and delivered; but not exceeding the par value thereof, if bearing interest at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest. But the notes were not to exceed in amount the capital paid in. The amount of circulating notes issued to all the associations was not to exceed three hundred million dollars. One-half of the circulation was to be apportioned among the states according to representation in Congress, and in the territories according to population. The other half was to be distributed by the Secretary of the Treasury among the cities and towns in proportion to the demands of business. The notes constituting this circulation were redeemable in United States notes.

This act was superseded and repealed by the act of June 3, 1864; but its leading features were retained. Subsequent amendments have not departed essentially from this original model of the present existing national bank system.

The effect of this banking act on the public debt was to create a demand for a large proportion of the United States bonds then upon the market. It nearly duplicated the circulating medium when the associations authorized by it availed themselves of its provisions. Whatever may be thought of the necessity of the national banks at the present day, there can be no doubt that they rendered great service to the country during the war, and for several years following its close.

Before the Civil War, bank-note circulation was issued solely under state legislation, with such security for its redemption as might be prescribed in the statutes. Much of this security proved worthless in the latter part of 1861, when the strain of the war caused a suspension of specie payments. The time was, therefore, favorable for the adoption of the new system of paper currency. But the question was — What shall the system be? The old United States Bank, which carried on business for more than forty years, was established upon the principle that it was the duty of the government to furnish the country a safe and uniform paper currency. This institution was granted the usual banking powers. The public funds were deposited with it and its several branches, and the government was a stockholder. The contests in Congress for the renewal of its charter became a bitter party issue. Among the charges preferred against it were these: That the deposit of government money enabled it to outbid private dealers in the purchase of foreign exchange; that its influence enabled it to corrupt legislation; that it subjected the government to the dictation of a moneyed aristocracy; and that it gave an unfair advantage to the stockholders of a single corporation by the free use of the public money. Whether or not there was evidence to sustain these charges, it was not likely that any fiscal agency not obviously free from such objection would be acceptable to the people at this time, although the notes of the state banks had become almost worthless for the

purpose of currency. Two remedial plans were suggested by Secretary Chase in his report to Congress, in December, 1861:

First. The gradual retirement by destructive taxation of all bank-notes emitted by private corporations, and the issue in their stead of United States notes payable in coin on demand, in amounts sufficient for the useful ends of a representative currency.

Second. The delivery to banking associations of notes prepared for circulation under national direction, and secured for prompt convertibility into coin, by pledge of United States bonds and other needful regulations. The secretary did not favor the first plan. He feared that the temptation to issue notes would overcome the caution which should be exercised to provide adequate means for their redemption. The second plan, with the taxing feature of the first, had his approval; and the national banking system was subsequently reared upon it. This was not altogether a new financial device. "It is not," said the secretary in his report, "an untried theory." In the State of New-York, and in one or more of the other states, it had been subjected, in its most essential parts, to the test of experiment, and was found practicable and useful. "The probabilities of its success," said he, "will not be diminished but increased by its adoption under national sanction and for the whole country." It is said that Eleazur Lord, of Piermont, New-York, was the first to propose the free banking system of that state. Millard Fillmore, when comptroller of New-York in 1849, suggested the issue of bank-notes secured by stocks of the United States, and receivable at the National Treasury for all public dues. The Hon. Orlando B. Potter, of the city of New-York, addressed a letter to Secretary Chase on Aug. 14, 1861, in which he submitted a plan for a national paper currency, which he says, in a recently published pamphlet, "was substantially adopted in the National Banking Act passed Feb. 25, 1863." However this may be, Salmon P. Chase, of Ohio, was Secretary of the Treasury at the time. To him must be given the credit of the plan for a national paper currency, based on the national stocks, and thus secured by the government itself. Whether he invented this plan, or whether he adopted it, matters not. It was through his great financial genius that by a single stroke of the pen, as it were, a bank-note currency as secure as the government credit could make it, was substituted for a paper currency which varied in value in every state, and fluctuated from *par* to *nil*, according to the value of the stock, if any, pledged for its redemption. The old currency was forced in by an excise tax that, while nominally a revenue measure, was in fact prohibitory of its circulation. The question as to the constitutional power to enforce such a tax was afterwards brought before the Supreme Court of the United States in the case of The Veazie Bank *vs.* The Collector of Internal Revenue. At that time Mr. Chase was Chief Justice. He delivered

the opinion of the Court, deciding the question in the affirmative: on the grounds, first, that there is no limitation on the power of Congress to impose excise taxes; and, second, that Congress has the power to provide a uniform paper currency. In effect, this decision denied the existence of sovereign power in the states to charter banks of issue,— a power which they had freely exercised almost without question from the formation of the Union until the year 1864. The fullest consideration was given to this question at the January Term of the Supreme Court of the United States in the year 1837, and it was then decided that there was no limitation in the Federal Constitution upon the sovereign power of the states to charter banks of issue. Three times thereafter this decision was affirmed by that Court. No question could have been better settled. Yet, as the result of war legislation and the innovations of the times upon the organic laws, the national banks were clothed with the exclusive privilege to issue paper currency. No judicial act of the Supreme Court has tended more to centralize power in the Federal Government than its decision in the Veazie Bank case. But whether the reader favors or opposes this system, he must admit that it strengthened the government credit, and created a currency of uniform value as stable as that credit could make it.

It is easy, now, to see why, irrespective of patriotic motives, capital came to avail itself of the vast loans negotiated for the maintenance of the Union. Without the Union, all capital would be swallowed up in future and not far distant wars. No two nations of such diverse interests and conflicting institutions as a Northern Union and a Southern Confederacy could remain at peace with each other. On the other hand, the maintenance of the Union would secure to capital the inexhaustible resources of the whole country. We were banking not only on the wealth of our northern and western agricultural and mining resources, our forests and grazing ranges, our factories and fisheries; but also on the cotton, tobacco, and other staples of the Southern States, whose annual yield is computed by hundreds of millions. History affords no parallel of a people blessed with such a wealth of resources, — resources that enable us to add a billion in value to the credit side of our country's ledger each succeeding year! Vast as were our financial operations during the prosecution of the war for the Union, they were almost as nothing compared with what could have been accomplished had our full abilities been tested.

CHAPTER VIII.

THE LEADING MOVEMENTS OF THE WAR, 1861–1862.

WHAT ARE ACTS OF WAR?—SEIZURE OF FEDERAL FORTS AND PROPERTY—SUMTER AND ITS FATE—DIPLOMACY AND ITS FAILURE—JUDGE CAMPBELL AND MR. SEWARD—THE EXCITEMENT NORTH AND SOUTH—BLOOD SPRINKLING IMPULSES—JERRY CLEMENS AND HIS STORY—PRESIDENT LINCOLN'S PROCLAMATIONS—EXTRA SESSION, 1861—PREPARATIONS FOR HOSTILITIES—BLOCKADE—RESPONSE TO CALL FOR TROOPS—BALTIMORE IN A FERMENT—MASSACHUSETTS AROUSED—THE MOUNTAIN UNIONISTS—BORDER STATES SECESSIONISTS—ELLSWORTH'S DEATH—THE ARMY ABOUT WASHINGTON—THE ADVANCE TO RICHMOND—BULL RUN, ITS HUMORS AND TRAGEDIES—BALL'S BLUFF AND ITS DISASTER—MISSOURI CAMPAIGN—LYON'S HEROISM—GENERAL BAKER AND STONE PASHA—THE OUTRAGE UPON THE LATTER—EXPEDITIONS TO NORTH AND SOUTH CAROLINA—THEIR SUCCESSES—BATTLE IN HAMPTON ROADS—THE MARVEL OF HISTORY.

THE adoption of an ordinance of secession, or of nullification, by a state convention has not been regarded in the light of a declaration of war against the United States; but when followed by the seizure of forts and arsenals, and other public property of the general government, it is so regarded. An attempt so to obstruct or hinder the execution of the laws of Congress, by the organized militia of a state, can be construed as nothing less than an act of war. But the word "war" is a generic term. Such an act of hostility is defined in the Constitution as an act of "insurrection." Secession is Insurrection. Nine of the twelve states whose delegates framed and signed the Constitution, were made necessary to its enforcement upon themselves; and three-fourths of the states must concur in amendments. It would be unreasonable, therefore, to hold that one state may undo the work of three-fourths of the states. So thought President Jackson, in 1832. He then issued his celebrated Proclamation warning the people of South Carolina against the consequences of attempt-

ing to enforce their ordinance which declared the tariff laws null and void. President Lincoln acted on this principle in 1861, with reference to the seizure of the custom house at Charleston, and the firing upon the forts by the state and Confederate forces.

The first overt act was the seizure of the revenue cutter Aiken. This was done by the state authorities, to whom it was surrendered by Capt. M. L. Coste. This act of war was followed by the seizure of forts, arsenals, custom houses, and other property of the government along the southern coast, from Beaufort in North Carolina, to western Texas. Only Fort Sumter at Charleston, Fort Pickens at Pensacola, and the fort at Key West remained, within the limits of the seven Confederate States, in the possession of the United States forces, at the close of Mr. Buchanan's administration. On the fifth day of January, 1861, the government dispatched the steamer Star of the West from New-York, with supplies and re-enforcements for Fort Sumter. It arrived off the harbor of Charleston on the 9th. It was fired upon and driven back to sea by the Confederate batteries. No further attempt was made during Mr. Buchanan's administration, to defend the public property in the Confederate States.

The convention of South Carolina sent commissioners to Washington. They were to negotiate for the peaceful surrender of the public property to the state. On the 28th of December, 1860, they addressed a note to the President. Copies of their full powers in the premises were enclosed. They also submitted the ordinance of secession. They thought that there would be little difficulty in settling the terms of the surrender. After their arrival in Washington, they were disenchanted. They learned of the dismantling and abandonment of Fort Moultrie by Major Anderson. They were advised of his occupancy of Fort Sumter. Until these circumstances should be explained they concluded to suspend further negotiations. They, however, urged the immediate withdrawal of the troops from the harbor of Charleston. They regarded their occupancy of the fort as a menace. While the Union flag floated over them negotiation was impossible. President Buchanan replied, in the language of his annual message, that, apart from the execution of the laws, "so far as it shall be practicable," the Executive has no power to decide what shall be the relations between the Federal Government and South Carolina. He held that the Constitution conferred no power upon the Federal Government "to coerce a state into submission, which is attempting to withdraw, or has actually withdrawn from the confederacy." President Lincoln, in his inaugural speech, assumed it to be his duty to enforce the laws; but he disclaimed the wish, and the power, to interfere with slavery in the states. He declared that he took the official oath with no mental reservations.

Early in March, 1861, Messrs. John Forsyth, of Alabama, Martin J. Crawford, of Georgia, and André Bienvenu Roman, of Louisiana, made

their appearance in Washington. They came as commissioners representing the Confederate authorities. They were charged with the duty of negotiating a peace between the Confederacy and the United States. One condition to such a peace was the surrender by the latter to the former, of all forts, arsenals, and public property. This was to be accompanied by an adjustment of the proportions of the public debt to be borne by each. The Secretary of State, Mr. Seward, declined to see the commissioners. He returned a polite reply to their written communication. It was in the form of a memorandum. In this memorandum, the secretary rejects the assumption of the commissioners, that the Confederate States had established an independent government, *de facto* and *de jure*. He resents all the assumed consequences that would flow from such a relation. The memorandum bears date March 15, 1861. It states that the communication from the commissioners was received on the 13th. The memorandum was not sent to the commissioners until the 8th of April.

The commissioners were not as courteous as the secretary in their reply to his memorandum. They reply on April 9th. They call attention to the long delay of the secretary. They leave the inference that they regarded the delay as proceeding from a desire to gain time, while relief was being sent to Fort Sumter. They admit that they consented to the delay; but only upon the assurance, given by Mr. Seward to "a person occupying a high official position in the government"—meaning Judge Campbell of the Supreme Court,—"that Fort Sumter would be evacuated in a very few days." Judge Campbell, in a letter to Mr. Seward, dated April 13th, reiterates the statement, that he gave them the information, on the secretary's authority, that the fort would be evacuated within five days. He calls upon the secretary to explain the cause of the failure to carry out the promise. At the expiration of the five days, he calls on him again with a telegram from General Beauregard to the effect that Sumter was not evacuated, and that Major Anderson was at work making repairs. He then learned from Mr. Seward that the failure to evacuate was not the result of bad faith, but was attributable to causes consistent with the intention to fulfill the engagement; and that notice would be given of any design to change the status at Fort Pickens. Judge Campbell states that Judge Nelson of the Supreme Court was also present at these conversations. They were three in number. The communications to the commissioners had been shown to and sanctioned by that gentleman. Judge Campbell further states that, on the 1st of April, Mr. Seward gave him the written assurance that he was satisfied the government would not attempt to supply Fort Sumter without giving notice to Governor Pickens. On the 7th of April, Judge Campbell states that Secretary Seward wrote to him, "Faith as to Sumter fully kept; wait and see." The next morning he read in the newspapers that an authorized messenger from President Lincoln had informed Governor Pickens

and General Beauregard that provisions would be sent to Fort Sumter "peaceably, or otherwise by force." On the 20th of April, Judge Campbell addressed a note to Mr. Seward enclosing a second letter similar to that of the 13th, and stating that he had received no reply to the latter.

An article in the Albany *Evening Journal* of May 30 gives what was, in all probability, Mr. Seward's version of the affair. That journal was edited by Mr. Thurlow Weed. He was a life-long personal and political friend of the secretary. The statement may be regarded as fully authorized. Mr. Weed states that if Mr. Seward were at liberty to reveal all that passed between him and Judge Campbell on several occasions, not only no imputation would rest upon the secretary's sincerity, but the facts would seriously affect Judge Campbell's well-established reputation for candor and frankness. The implication was that Judge Campbell balanced long between loyalty and secession; that if he favored secession while those conversations were being held, he was misunderstood; and that if during that period of mental trial he was acting in harmony with the leading enemies of the Union, he was grossly misunderstood. The *Journal* admits a misunderstanding on Mr. Seward's part: "That Governor Seward conversed freely with Judge Campbell, we do not deny, nor do we doubt that in these conversations, at one period, he intimated that Fort Sumter would be evacuated. He certainly believed so, founding his opinion upon a knowledge of General Scott's recommendation." These discrepancies, if charitably construed, do not militate against the honor or good faith of either of these gentlemen. No doubt it was a case of diplomacy on both sides.

Mr. Seward was anxious to avert war. It could not, therefore, be said that he gave a positive promise which might not be retracted. He temporized then, as who did not? He was ready to make concessions which could not be required by constitutional obligations. He made concessions to which a man like Andrew Jackson would not have listened. Mr. Seward possessed a daring spirit and a firm purpose in the conduct of foreign affairs, but in domestic concerns which might eventuate in civil war, he had the noble hesitation of a patriot. Other men behind the President, who appeared to have greater firmness of purpose, were far less considerate of consequences. It was these men who overruled the peaceful plans of the Secretary of State.

The steam transport Atlantic sailed from New-York with troops and supplies on the 7th of April. On the same, or the next day, Governor Pickens received official notification from Washington that supplies would be sent to Major Anderson. Charleston was at that time filled with Confederate troops. There could be no ground for a complaint that timely notice had not been given. General Beauregard was in command of six thousand troops in the forts and batteries which he had seized or constructed. Major Anderson had taken refuge with his eighty men in Fort Sumter. He was

short of provisions. On the 11th of April, General Beauregard demanded the surrender of the fort. Major Anderson declined to comply. At 4.30 o'clock on the morning of the 12th, the Confederates opened a heavy fire with seventeen mortars and thirty large guns. The fort replied. It had guns of inferior range and calibre. The bombardment was kept up for thirty-four hours, "until," as Major Anderson states in his report, "the quarters were entirely burnt, the main gates destroyed by fire, the gorge walls seriously injured, the magazine surrounded by flames, and its door closed from the effects of heat." The powder was nearly exhausted. The slender garrison had nothing but pork in the way of provisions. There was imminent danger of an explosion of the magazine. Under these circumstances Major Anderson was tendered honorable conditions. He accepted them and surrendered. He marched out of the fort on Sunday afternoon, April 14, with colors flying and drums beating, bringing away company and private property, and saluting his flag with fifty guns. And thus began the most needless and gigantic civil war ever recorded in the annals of our kind.

Down to this period, public sentiment in the Northern states had been divided in regard to the course to be pursued. But the bombardment and capture of Fort Sumter touched every patriotic sensibility. The national flag was fired upon. It was lowered in surrender. There was aroused a universal sentiment of indignation. It was intensified by the desire for revenge. Many who had been opposed to a war with the South, and who had entertained strong political sympathies with her upon the causes which provoked secession, were now emphatic in her denunciation. They were among the readiest to volunteer for the suppression of the insurgency. The whole North was aroused; and everywhere the appeal was heard,—"To arms! To arms!"

Did the South lack in enthusiastic devotion? The effect was also instanstaneous and electric upon the ardent Southerner. The doubters and semi-Unionists became convinced that separation was a necessity. Those who could not sanction the theory of secession as a constitutional remedy for Southern grievances, lifted up their ensign and proclaimed the inalienable right of revolution. As predicted, the shedding of blood was necessary to fire the Southern heart. The spirit of secession was not laggard but swift. Roger A. Pryor, then a distinguished representative of Virginia in Congress, went to Charleston in the early part of April. He urged the Confederates to make the attack on the Union fortifications. In a speech to the people and soldiery, by whom he was serenaded two days before the bombardment began, he said, amid enthusiastic and deafening outbursts of applause: "Do not distrust Virginia. As sure as to-morrow's sun will rise upon us, just so sure will Virginia be a member of the Southern Confederation. And I will tell you, gentlemen, what will put her in the Southern

Confederation in less than an hour, by Shrewsbury Clock. Strike a blow! [This was received with tremendous applause.] The very moment that blood is shed, Old Virginia will make common cause with her sisters of the South. It is impossible she should do otherwise."—Mr. Pryor reasoned well. He was prophetic. Fort Sumter surrendered on the 14th, and the Virginia convention passed the secession ordinance three days after.

The same policy was urged in Alabama after the state legislature had adopted an ordinance of secession in secret session and refused to submit it to the people for ratification. Mr. Jeremiah Clemens gave some point to this fact, in an address made by him, on March 13, 1864, at a peace meeting held in his native town of Huntsville, in that state. He had served in the United States Senate. He had been a distinguished officer in the Texan war for independence, and in the Mexican War. He did not favor the secession movement. He protested against it, and, in fact, he openly advocated the re-election of Mr. Lincoln in 1864. In adjourning the meeting, Mr. Clemens said he would tell the Alabamians how their state was got out of the Union. "In 1861," said he, "shortly after the Confederate Government was put in operation, I was in the city of Montgomery. One day I stepped into the office of the Secretary of War, General Walker, and found there, engaged in a very excited discussion, Mr. Jefferson Davis, Mr. Meminger, Mr. Benjamin, Mr. Gilchrist, a member of our legislature, and other prominent gentlemen. They were discussing the propriety of immediately opening fire on Fort Sumter, to which General Walker appeared to be opposed. Mr. Gilchrist said to him: 'Sir, unless you sprinkle blood in the faces of the people of Alabama, they will be back in the old Union in less than ten days!' The next day General Beauregard opened his batteries on Sumter, and Alabama was saved to the Confederacy."—This sprinkling of blood is equally effective North and South. Thenceforward there is little hope of restoring peace until the resources of the weaker party are exhausted.

When the news of the capture of Fort Sumter reaches Washington, President Lincoln issues a proclamation. It is dated April 15. He calls upon the states for seventy-five thousand militia, "in order to suppress unlawful combinations, and to cause the laws to be duly executed." He appeals to all loyal citizens to aid him in maintaining the honor, the integrity, and the existence of the National Union. The first services of the troops called forth will, probably, be to repossess the forts, places, and property which have been seized; and in every event, the assurance is given that the utmost care will be observed, consistently with the objects named, to avoid any devastation, any destruction of, or interference with property, or any disturbance of peaceful citizens in any part of the country. He commands all unlawful combinations to disperse within twenty days, and calls the Senators and Representatives in Congress to convene on the fourth day

of July, in extraordinary session.— The writer went to that session as a member of Congress, fresh from the terrible excitements of the capital of Ohio, with a fear and trembling beyond all other public experiences.

The President's proclamation was certainly within the line of executive duty. It came strictly within the Constitution. Yet it was made the ground of justification for the secession of Virginia, North Carolina, Tennessee, and Arkansas. These states, up to that date, had been held in the Union by the strong anti-secession sentiment of the people and their leaders. The secessionists were consistent at least; but the Unionists of the South were not. The latter held, with Henry Clay and Andrew Jackson, that secession and nullification were not rightful nor constitutional remedies for grievances. They could not justify resistance to the Federal forces on the ground that the President had no power to call out the militia to protect the public property and enforce the laws. They simply fell into the current with their states. They drifted, unable to resist the popular passions in the impending war, until at last they heartily espoused the Confederate cause.

Although the government of the United States was immeasurably stronger than the Confederacy, the latter was, at the moment, better prepared for hostilities than the former. As has been stated, Beauregard had six thousand troops under arms at Charleston. Volunteers were ready to march from every part of the seceded states. Not a few were going South from the border states. They were full of dash, *esprit*, strength and courage. They were as thoroughly imbued with the spirit of resistance as any revolutionist who ever raised a troop or carried a flag. Pending the Southern agitation and preparation for war, the Northern people had been listlessly looking on. They were wondering what was to come of the excitement. They prophesied a short duration of conflict. Then all would be serene again. The regular army was not above ten thousand effective men. It was scattered over the Western territories. Only a few hundred could be brought together to meet the emergency. Most of the officers from the South resigned and took commissions from the Confederacy. The navy, too, had been dispatched to the four quarters of the globe; although, regarding that arm of the service, the government, of course, had greatly the advantage over the insurgents. John B. Floyd, of Virginia, who had been Secretary of War during the administration of Mr. Buchanan, until the end of the year 1860, found pretexts for sending vast numbers of small arms, as well as cannon, from Harper's Ferry and Pittsburgh to the South. He resigned when this misuse of his authority was arrested; but the mischief was already done. The Confederates were placed in possession of immense military equipments and stores, on the easy terms of seizing the forts and arsenals in the South, each guarded by, at most, a captain's company. The result of the war proved how all these advantages were reversed by the mechanical skill and forces of the North.

On the 19th of April, the President issues another proclamation. It declares a blockade of the ports of the insurrectionary states. A competent force is to be posted so as to prevent the entrance and exit of vessels. Vessels attempting to enter, or departing, are to be warned off by the blockading vessels. A second attempt to enter is to be a ground of forfeiture as a prize. The blockade is extended to the ports of Virginia and North Carolina on the 27th of April. This is done in consequence of the seizure of government property and the arrest of government officers by the authorities of those states.

The Northern states promptly respond to the President's call for troops. Pennsylvania being the nearest to the capital, is the first to reach it, with three companies, on the 18th of April. The Sixth Massachusetts regiment arrives at Baltimore on the 19th, the anniversary of the battle of Lexington. It is there held in check by a mob for some hours. Eight of the companies go through the city in railway cars, drawn by horses. They are assailed with showers of stones and bricks. The two rear companies alight. They march through, and are also assailed. Two soldiers are killed, and eight wounded. The soldiers refrain from using their muskets as long as possible. At length random shots are fired, by which several of the assailants are killed and wounded. The regiment forces a passage through the city, and reaches Washington. This is the first blood shed in the war; for the bombardment of Fort Sumter killed no one. The excitement produced in the Northern states, and especially in Massachusetts, by this hostile reception of Union troops in Baltimore, is intense. The effect is to nerve the arms of Northern men for the fight. Baltimore remains, for some days, under the control of the mob. Governor Hicks and the mayor inform the President that no more troops can pass through the city without fighting their way. But Baltimore cannot stop the march of the Northern legions. Not for a second of time can that be done.

Troops are now rapidly pouring into Washington from the Northern states. Annapolis and Fortress Monroe are re-enforced by volunteers. The legislatures of the Northern states liberally vote men and money. Great public meetings are held. Many more men volunteer than are called for. Early in May, the President makes a requisition for 42,000 three-months volunteers. At the same time he directs, on his own responsibility, that an addition of eight regiments of infantry, one of cavalry, and one of artillery be made to the regular army,— the aggregate is to be 18,000 men. These measures are afterwards legalized by an act of Congress. The Confederates are equally active in preparing for war on a large scale. They are so elated by their successes that they expect to seize the capital of the Nation. Some sanguine secessionists talk of a march to Boston, and of hoisting their flag on Bunker Hill in ninety days. By the first day of May the Confederates have seized sixteen United States forts and arsenals, and 1,200 heavy cannon.

The Union officers in command of Harper's Ferry Arsenal, and Gosport Navy Yard, near Norfolk, blow up and destroy the immense military and naval armaments at those important government works, to prevent their falling into the hands of the enemy. The property destroyed at the navy yard is valued at $7,000,000; and yet a large number of heavy guns fall into the hands of the Confederates.

The people inhabiting the Alleghany range of mountains, from Pennsylvania to Georgia, except those in the Virginia valley, held few slaves; and as a consequence, the secession sentiment had only a fragile hold upon them. The counties of Virginia west of the Alleghanies, backed as they were by Pennsylvania and Ohio, were strong enough to break off from the state, and set up an independent government. This was carrying the doctrine of secession further than its authors intended it to go; but in the end, however invalid and unconstitutional, it was the only kind of secession that succeeded. A similar loyalty of feeling prevailed among the independent mountaineers of North Carolina and Tennessee; but being in the midst of the Confederacy, they were, from time to time, overrun by the Confederate troops in their marches and countermarches from north to south. Hence they were not in a condition to institute independent governments. They were, nevertheless, a thorn in the side of the Confederacy, and rendered not a little service to the Union cause. There can be no doubt that the Union sentiment was far stronger in these mountain districts of North Carolina and Tennessee than it was in the border states, — Maryland, Kentucky, and Missouri. Yet the services and sufferings of these people in the cause of the Union, were never sufficiently appreciated by the general government.

There is conclusive proof that the ruling classes, if not a majority of the people, in Maryland, Kentucky, and Missouri, were in entire sympathy with the South; but the contiguity of these states to the powerful and populous North paralyzed all the efforts made to draw them from the Union. The war, as regards the other states, was a war of sections — of the South against the North; but in Kentucky and Missouri there was civil war in the strict sense of the term. It was a war in which neighbor was arrayed against neighbor and, sometimes, brother against brother. Secession, however, was soon expelled from them, and the Union lines, though liable to be invaded, were fixed, in the early part of the struggle, upon their southern boundaries.

Gen. Benjamin F. Butler took possession of the Relay House on the 10th of May, 1861, and of Federal Hill in Baltimore, on the 13th, with the Union troops under his command. After this there was no further trouble from the excitements of that city. By securing a position at the Relay House, he held the line of communication open from the North to Washington, and commanded the line to the West along the Baltimore and Ohio Railroad. It was a most important military feat, on the success of which depended the fate of the capital.

On the 24th of May, Ellsworth's Zouave regiment of Illinois and a Michigán regiment cross the Potomac at Washington. These take possession of Alexandria. A citizen named Jackson is the proprietor of the Marshall House. He floats the secession flag from the top of his house. Colonel Ellsworth, finding no one who acknowledges responsibility for the flag, ascends the stairway to the roof accompanied by two soldiers. He takes the flag down. As the colonel descends he is met by Jackson, who fires upon and kills him instantly. In a moment Jackson himself is shot dead by one of Ellsworth's men. This tragedy, so near the capital, at the beginning of the war, causes a great sensation. It intensifies the passionate, already hot enthusiasm of the people on both sides. The Confederates evacuate Alexandria on the approach of the Union troops. They fall back toward the main body of their forces which are gathering in the vicinity. On Arlington Heights is the residence of Col. Robert E. Lee. They are in full view of, and command the national capital. On the 24th of May they are occupied by the government forces, and are soon fortified by them. From this time forward, regiments and brigades, as they arrive from the North, are marched across the Potomac and encamped on the south side, in the vicinity of the Heights. A few miles beyond the Union lines the capital is menaced by the gathering hosts of the Confederates. As a matter of policy and law, it is most important that the capital should remain in the hands of the Unionists. The northern approaches are not forgotten. Soon a line of fortifications, armed and manned, extends entirely around the District of Columbia. The fortifications consist of a series of earthworks, at intervals of a few hundred yards, connected by rifle-pits.

In this brief reference to military movements, it is impracticable to allude to many events which awakened great interest, North and South, at the time of their occurrence. To do so is not within the scope and intent of this volume. The military movements are only incidental to its purpose. Passing by a number of encounters in the upper counties of Virginia, in most of which the government forces had the advantage, and the affair at Big Bethel in eastern Virginia, in which the Confederates were successful, it must suffice to present a little more in detail the incidents attending the first great battle of the war. That battle bears the significant title of Bull Run. This is the name of a creek which separates the counties of Fairfax and Prince William, in Virginia. The battle-ground is in the vicinity of the stream, about thirty-five miles from Washington. The Confederates, under the command of General Beauregard, were massed in the same vicinity, near Manassas Junction, on the Orange and Alexandria Railroad. The Union forces were commanded by Brig.-Gen. Irvin McDowell. As has been stated, they were encamped on and around Arlington Heights. The right wing was on the north bank of the Potomac, extending for some miles above Georgetown.

Much criticism was then indulged in, because of the dilatoriness of the army. The non-action of the generals was made the theme of many a jibe, as it was afterwards, when General McClellan took command. But while officers like Lieutenant-General Scott and Brigadier-General McDowell believed that some weeks of drilling would be necessary to prepare raw militia for the battle-field, there can be little doubt that the popular demand for an advance had the effect of hastening the movement on the enemy at Manassas.

General Mansfield, commanding the Department of Washington, in his report of June 27, 1861, states that the number of privates, including regulars and volunteers, present for duty in the vicinity of Washington, was 22,846; and that the grand aggregate of officers and men, present and absent, was 34,160. General Patterson, commanding in Maryland, to the west of Washington, had a force of 15,923. But these troops took no part in the battle of Bull Run; they did not march to the sound of the enemy's guns. The Confederate force engaged in the battle, as stated by General Beauregard in his official report, was 32,672, consisting of the armies of the Potomac and Shenandoah, the brigade of General Holmes, Hampton's Legion, Hill's Virginia regiment, and a company of cavalry, ninety strong. There were twenty-six cannon, belonging to these Confederate forces. The battle was planned by Beauregard. He had the larger force under his immediate command; but, being the junior officer, he was superseded by Gen. Joseph E. Johnston, who came down from the west and joined him on the 20th of July. The Confederates, under Beauregard, fell back from Centreville some days beforehand. They took position on the south side of Bull Run, the fords and bridges being guarded and defended against the approach of the Union army. General McDowell says in his report, in respect to the number of his command: "We crossed Bull Run with about 18,000 men, of all arms; the Fifth Division (Miles') and Richardson's brigade on the left, at Blackburn's Ford and Centreville; and Schenck's brigade of Tyler's division on the left of the road, near the stone bridge, not participating in the main action." These are the statements of the commanding generals of the opposing armies. There are no more reliable authorities. The force under General Patterson, which crossed the Potomac into Virginia, took position near Charlestown. It was rendered inefficient in consequence of the fact that the term of service of half the men (eight regiments) would expire on or before the twenty-fifth of the month. Patterson was expected to hold Johnston in check by threatening Winchester. He did so until Johnston ascertained that the Pennsylvania three-months militia were clamoring to be discharged. Then the latter felt that it would be safe to move off and join his forces with those at Manassas.

McDowell's first plan is to cross Bull Run at Blackburn's Ford. But he finds the enemy, on the 18th, strongly posted at that point. General Tyler

is compelled to fall back, with some loss, before Beauregard. These facts lead McDowell to pass the stream higher up, so as to turn the enemy's left flank. Accordingly, on the morning of the 21st, he crosses without serious obstacle. He drives the enemy for some miles. At one time he flatters himself that the day is won; but about two o'clock, when the men are fatigued with their long march, jaded and hungry, the Confederates are re-enforced by the arrival of 6,000 of Johnston's men, being a part of the army of the Shenandoah. This re-enforcement turns the scale. A panic seizes the Union forces. They give way. The retreat becomes a rout. The first great battle of the war results in an inglorious and appalling disaster to the Union cause. But in spite of the completeness of the overthrow, and the loss of prestige, the number of men killed and wounded by the opposing forces is not so disproportionate as might have been supposed. The Union loss, according to the report of Assistant Adjutant-General Fry, is 481 killed, 1,011 wounded, and 1,216 missing. The Confederate loss, as stated by their officers, is 387 killed, 1,582 wounded, and 13 missing.

General McDowell says, in apology for the men under his command, that they were raw militia; and that they had to make a long march on the morning of the 21st, before reaching the battle-field; that they were tired and hungry; that he had relied upon General Patterson to keep Johnston employed in the neighborhood of Winchester; and upon General Butler to detain those which came up from the South. It unfortunately happened, also, that two forces of his own mistook each other for enemies and fell to fighting, by which his plans were deranged. It would seem from the accounts that the battle hardly resulted in a determinate victory. Both sides apologized. General Johnston apologized for failing to pursue his routed enemy and capture Washington. His statement is, that he had no cavalry; that the United States troops remained apparently firm at Centreville; that a strong force occupied Alexandria, Arlington, and the works near Georgetown; and that General Patterson, with his "thirty thousand men" could reach Washington before he could. These obstacles, except the last, were perhaps as formidable as Johnston imagined. But the official returns show that Patterson could not have had at the time ten thousand troops. He reported that, of his 14,344 men, eight regiments were to be disbanded before the 25th of July, and that most of them had already been discharged; while his re-enforcements, though ordered, had not had time to arrive at his camp near Charlestown. General Johnston's monthly report for June 30, 1861, shows that his command consisted of 10,622 men and officers. His force was, therefore, larger than Patterson's on the 21st day of July.

Details of this battle, or riot, as it has been called, may not be appropriate in a volume dedicated particularly to "Federal legislation." But as Congress had been in session from the 4th of July; and as its members partook of the general feeling of unrest for a warlike movement, the interest in

the expected pageantry in Virginia, aroused the wildest excitement. There had not been much acrimonious debate. Much business had been done. Tariffs were changed; loans and troops authorized; the currency regulated; and everything betokened a vigorous prosecution of the war for the Union; when lo! "Onward to Richmond!" "The Army moves!" Before the battle, the hopes of the people and of their representatives are very elate, and almost jocosely festive. Sanguine newspaper editors, and congressmen of like temperament and as little real information, are impatient with the seemingly passive condition of the army. They demand an immediate movement upon the enemy's works. "On to Richmond!" is the watch-word of these belligerent gentlemen in their quiet homes. In the hall of the lower House, the gloom of the preceding three weeks of inaction is dispelled by the stirring movement. The writer shares the excitement. There are some military members eager to join in the fray. Among them are Col. William A. Richardson, of Illinois, a soldier of the Mexican War; Gen. John A. Logan, of like martial fame; Isaiah Morris, also of Illinois; Albert G. Riddle, of Cleveland, Ohio, an eminent lawyer and a gallant man; John A. Gurley, of Cincinnati, Ohio, a Universalist minister, and Alfred Ely, of Rochester. Senators Wade and Chandler join in the attack. The writer feels the martial contagion. He prepares to go with his gallant friends to the front. If he cannot carry a musket, as his comrades propose, he can observe the result with equanimity. To this end, he procures a pass for that particular purpose. He here makes a tender to the reader of that treasured memento of the war:

"HEAD QUARTERS,
MILITARY DEPARTMENT OF WASHINGTON,
July 15, 1861.

Pass Hon. Mr. Cox over the bridges and within the lines
By order of General Mansfield, Commanding:
DRAKE DEKAY,
Aide-de-Camp.

☞TURN OVER.

It is understood that the within named and subscriber accepts it, upon his word of honor that he is and will be ever loyal to the United States; and if hereafter found in arms against the Union, or in any way aiding her enemies, the penalty will be death."

By turning over this now yellow and patched souvenir of the first battle of the war, the terrible obligation, with its death penalty, smites the soul afresh. But the writer was not destined for that war; at least, fate forbade

an encounter of its inglorious Bull Run hardships. The members were to go in carriages to the front. The writer's seat had been preoccupied by some soldier in an emergency to join his command. He was thus ousted of his right. Still, many of his constituents were there. One of them, from Pickaway County, Ohio, like the celebrated contractor of the Revolution, was there, crying "Beef! Beef!" He had brought on to Washington and sold to the government, three hundred head of cattle. He came to tell his member of his good luck. He would take those cattle on the hoof to Richmond, or perish. He would furnish the troops fresh beef by the way, or die. What became of them, the sequel reveals.

With bated breath, Congress awaits the issue. Its business lags. Its members gossip in the rear of the seats and in the cloak-rooms. At length dispatches come. They are read at the clerk's desk. Then Bull Run comes in,— preceded by the Pickaway contractor's cattle on a stampede. Then come intelligent contrabands and an incongruous array of wearied soldiers in dusty uniforms. What of the Senators and Representatives? Chandler, Wade, Richardson, Logan, Gurley, Morris, and Riddle return safely. Ely is borne by his resistless patriotism, darkly and fearfully afar. The Black Horse Cavalry of the enemy carry him into Richmond. Libby Prison receives him, and his goodness of heart and ample means enable him to aid his fellow-prisoners. Mr. Riddle relates how his company had been charged upon by wild riders of sable horses: "It seemed," said he, in a deliberately penned description, "as if the very devil of panic and cowardice seized every mortal soldier, officer, citizen, and teamster. No officer tried to rally the soldiers, or do anything, except to spring and run toward Centreville. There never was anything like it for causeless, sheer, absolute, absurd cowardice, or rather panic, on this miserable earth before. Off they went, one and all; off down the highway, over across fields, towards the woods, anywhere, everywhere, to escape. Well, the further they ran the more frightened they grew, and although we moved on as rapidly as we could, the fugitives passed us by scores. To enable them better to run, they threw away their blankets, knapsacks, canteens, and finally muskets, cartridge-boxes, and everything else. We called to them, tried to tell them there was no danger, called them to stop, implored them to stand. We called them cowards, denounced them in the most offensive terms, put out our heavy revolvers, and threatened to shoot them, but all in vain; a cruel, crazy, mad, hopeless panic possessed them, and communicated to everybody about in front and rear. The heat was awful, although now about six; the men were exhausted — their mouths gaped, their lips cracked and blackened with the powder of the cartridges they had bitten off in the battle, their eyes starting in frenzy; no mortal ever saw such a mass of ghastly wretches. As we came on, borne along with the mass, unable to go ahead or pause, or draw out of it, with the street blocked with flying baggage-wagons, before and

behind, thundering and crashing on, we were every moment exposed to imminent danger of being upset, or crushed, or of breaking down; and for the first time on this strange day I felt a little sinking of the heart, and doubt whether we could avoid destruction in the immense throng about us; and nothing but the remarkable skill of our driver, and the strength of our carriage and endurance of our horses saved us. Another source of peril beset us. As we passed the poor, demented, exhausted wretches who could not climb into the high, close baggage-wagons, they made frantic efforts to get on to and into our carriage. They grasped it everywhere, and got on to it, into it, over it, and implored us every way to take them on."

No more graphic picture has since been presented of the race of this army from an imaginary pursuit. The pencil of a David could not do it justice. No colors can be harmonized for such a chaos. De Quincy's "Flight of a Tartar tribe," is far less veracious and not more thrilling.

General McClellan takes command soon after this battle, *vice* General McDowell, removed. It is not long before the congressional critics are pursuing him for holding back the eager soldiery. They impute his seeming inactivity to fear of "Quaker guns." The radical cabal in congress, led by Senator Wade and re-enforced by Secretary Stanton, desire his removal. Among others who are thus eager is the Hon. and Rev. John A. Gurley, of Ohio. It was the writer's fortune to obtain the floor for a reply to a speech of his which abounded in strictures on McClellan. The hopes of the people were centered in General McClellan. How could the effect of these attacks on that favorite general be nullified? How could Mr. Gurley's villifications be turned to the account of the Republic? The writer happily thought of the reverend member's performance at Bull Run, of which full accounts had been received. The *ad hominem* and *ad risum* argumentation occurred to him, albeit then unused to this mood and mode. After repelling the attack of the preacher upon that unity which is indispensable to all commands, in or out of the army, and what was especially needed then, as personified in General McClellan; and after defending the President, who was attacked for retaining General McClellan in chief command, the author of this volume, addressing the Chair, said:

"Sir: My colleague — Mr. Gurley — compels me to examine into his merits as a military critic particularly; and also into the propriety of criticising military 'movements' here in Congress and elsewhere by civilians. My colleague is not a military man by education, nor a soldier, like Falstaff, on instinct. His profession was that of a gospeller. His studies do not fit him to discuss martial subjects. We do not go to a blacksmith to have our watch repaired, nor to a watchmaker to have our horse shod. We do not go to Carolina for cheese, nor to the Western Reserve for cotton. Criticism on the art of war, to be valuable, must be backed by specific study and experience. What has been the study and the military experience of my colleague?

There will be, Mr. Chairman," said the writer, "empyrics in medicine, pretenders in religion, pettifoggers in law, mushrooms in vegetation, secessionists in governments, and snobs in society; and we must not be surprised at military wiseacres in Congress! Since my colleague has hurled the glove at McClellan, I have a right to examine his claims as a critic. He admits being at Bull Run. His masterly activity on the retreat he admits. How that retreat was effected we only know from rumor. My colleague, after his fatiguing race to Centreville, and having passed that point with the speed of Gilpin — and not having the benefit of a carriage like the congressman who kicked out of it the tired soldiers besmutched with their cartridges in battle — was scampering along like the devil in Milton, flying —

> 'O'er bog or steep, through strait, rough, dense, or rare,
> With head, hands, wings, or feet pursues his way,
> And swims, or sinks, or wades, or creeps, or flies'—

until luckily he met — what think you, noble Representatives? — a herd of stampeded cattle, which were from my own beloved district — Texan cattle, sir, wintered in the Scioto valley, and selected by their drover for their stampeding propensity. Seizing upon the extreme rear of a noble bull, the Reverend and Honorable gentleman was borne from the field, holding on with vigorous prehension to the tail of that animal! There was a Bull Run indeed!"

"Mr. EDGERTON. I rise to a question of order. It is out of order for members of the House to applaud, cheer, or laugh in the manner they have been doing, and I submit—

"The CHAIRMAN. The Chair is satisfied that when gentlemen consider the impropriety of any disturbance, it will not occur again.

"Mr. WYCKLIFFE. I acknowledge a violation of order. I laughed; but for my life's sake I could not help it."

The writer, or rather the speaker, proceeded: "I will do justice to my colleague. I will put this as an apocryphal case. I am glad to do justice to him, and to that noble animal of my constituent, to whom the gentleman should have apologized, if the story were true. I was about to commend this strategy of my colleague, for its quick sense of the commissary advantages. But I deprecate his drawing on that, or any experience at Bull Run, to read the gifted McClellan and this Congress a homily on military affairs. The ancient warriors rode in their scythed chariots; the warriors on the South American pampas dash off with their lasso on horseback; the ancient Germans went into battle as our Indians do, with terrific yells and in painted horror; the courtly knight dashed into the tourney with iron-clad armor and vizor down. Various as human ingenuity are the modes of human warfare, both on the advance and in retreat; but never, sir, in the accounts of Xenophon or Marshal Saxe; from the time of Joshua to General Taylor;

nor in the contests of Achilles, or even of Garibaldi, have we so unique a performance as this supposititious race of my constituent's Durham with my colleague, from the fields of Bull Run. Does he claim that this exploit, if true, would make him a military expert?

"The only parallel I can find for my colleague is the description which is given of Job's war-horse: 'Canst thou make him afraid as a grasshopper? the glory of his nostrils is terrible. He paweth in the valley, and rejoiceth in his strength. He swalloweth the ground with fierceness and rage; neither believeth he that it is the sound of the trumpet. He saith among the trumpets, ha! ha! and he smelleth the battle afar off.' The parallel fails only in one regard. While the war-horse of Job was advancing, that of my colleague was retreating. Leaving his campaign in Missouri unfinished, he flew from Fremont to Ohio, with the 'certainty, celerity, and security' of a star bid in the Post-Office Department.

"I wish that my colleague would cultivate some faith in General McClellan. He is a minister of the Gospel, a Universalist minister, and is full of faith in the salvation of all men. I glory in according to him the fullest 'soul liberty' in religion. His creed includes the salvation of all — embracing in its comprehensive faith Davis, Wigfall, and all that crowd of conspicuous sinners. He believes that Zollicoffer is now in glory; he can even see Humphrey Marshall entering, as my colleague from Cleveland once said of John Brown, 'the pearly gates of Paradise' — and that too without the enlargement of the gates of Paradise or the lessening of the bulk of Marshall. He can, with his eye of faith, and in his universal benevolence, see the Falstaffian Kentuckian squeeze through the celestial doors, and larding the golden pavements of the New Jerusalem; but he cannot exercise a little faith, just the size of a mustard seed, in the prescience, skill, and sagacity of our accomplished young general.

"Oh! if there is one thing more beautiful than another, it is that trust which we repose in another in the dark hours of trial and death. It is said that reason was the first-born, but faith inherits the blessing. Reason is apt to be fallible, short-sighted, eager, impetuous, and impatient of contradiction; while faith is gentle and docile, ever ready to listen to the voice by which alone truth and wisdom can effectually reach her. God has created two lights — the greater light to rule the busy day — reason; the lesser to rule the contemplative night — faith; but faith shines only so long as she reflects something of the illumination of the brighter orb. Where a man has no faith he has no light of reason. There are some things in which a man must exercise his trust. The American people, unlike my colleague, have read the history of General McClellan. They know his military studies, his travel and observation, his practical railroad life, his mode of dealing with men and bodies of men, his prudential reserve, his unfailing patience, patriotism, and confidence in his own resources. They know that he is safe,

if not brilliant; that his knowledge of topography, engineering, and field strategy, his method and industry, and his quick apprehension of military strength and weakness, eminently fit him for this high command. Knowing this and reasoning upon this, now that the night is upon us, they will keep their faith in him, and no hostile criticism of the gentleman here can shake that faith. The attack of my colleague is like that of a 'pigmy with a straw against a giant cased in armor.'

"My colleague is not satisfied with anything short of an advance at every hazard. He is not satisfied with the President, for the latter defers to McClellan; not satisfied with any commander-in-chief, for no one can command even three hundred thousand men; not satisfied with what has been done; not satisfied with what is to be done. He would discourage all our efforts, and make taxation weigh like a useless burden on an anxious and saddened people. His policy would disorganize the army, and realize his theology by making a hell on earth, without giving us the satisfaction of a future state."

The writer then answered in detail, the frivolous philippic of the reverend member against General McClellan. Nearly a quarter of a century has gone by since that debate. It was had on the last of January, 1862. Three years afterwards, on the same day of the same month, and after the reverend member from Ohio had passed that bourne where he could solve the problems of the future state, his anti-slavery ideas were crystallized in the thirteenth amendment of the Constitution. But in the beginning of 1861, the country was thoroughly disgusted with the part congressmen played at Bull Run. Ah! with what jocund levity the House adjourned to go over to see the army march upon Richmond. Not one of the members ever got there, except Mr. Ely. The writer opposed the adjournment, lest by going over the river, they would only get in the way of the soldiers. It turned out that the soldiers got in the way of the congressmen. But when the grand consummation of the war came, in the ostracism of slavery forever, the soldiers got out of the way of the congressmen. The result showed, that in the order of events, even war has an inexorable logic and law of its own. "God works in a mysterious way, his wonders to perform."

The Bull Run disaster led to many changes. General Patterson was superseded by Gen. Nathaniel P. Banks. This was a consequence of his failure to hold Johnston in check. On the second day of August, Congress was still in session. The war taxes were increased, and the President was authorized to call out 500,000 men for three years, or during the war. General McClellan began a thorough reorganization of the Army of the Potomac. It was a much-needed work, for which he was well qualified. For this, the country still owes him a debt of gratitude. The military events in other quarters, immediately preceding or following the Bull Run disaster were, in the main, favorable to the government. There were

skirmishes innumerable, with varied success, as well as some actions of greater importance. In Missouri, the plans of the secession leaders for drawing the state into alliance with the Confederacy were frustrated by the intrepidity of Capt. Nathaniel Lyon, of the Second United States Infantry. Governor Jackson endeavored to preserve a neutrality; but he was organizing the militia, as it was alleged, in concert with the Confederates. It was also said that cannon and small arms were sent to St. Louis, where a military camp was formed which bore the name of the governor. On the 11th of May, Captain Lyon, at the head of a volunteer force and a few regulars, demanded of Brig.-Gen. Daniel M. Frost the surrender of the camp, and of the men he was drilling for service in the Confederacy. Frost entered a protest, and surrendered. His militia numbered 639 men, and fifty officers. They had six field-pieces, 1,200 rifle muskets, together with ammunition and other war material. These military equipments had been sent up the river and addressed to a well-known Union firm of merchants, but not delivered to them. As the prisoners were being led to the arsenal, the secession mob fired upon Lyon's force, when the latter returned the fire. Several of the rioters were killed. Lyon was rapidly promoted in consequence of this energetic action. He was made a brigadier-general of volunteers, immediately. But his active career was soon brought to a close. He was killed in the battle of Wilson's Creek, Missouri, on the ninth day of August, fighting against great odds. The Unionists were compelled to retreat, but the result was otherwise without importance.

General Sigel, with 950 men, encountered the Confederates under General Rains, commanding 1,800 men, at Carthage, in the same state, and although compelled to retire, he did so in good order, and without serious loss. On the 20th of September, Colonel Mulligan, with 2,500 men, surrendered the town of Lexington, Missouri, to a large Confederate force, under General Price, estimated at 20,000 men. It was, however, soon evacuated, and reoccupied by the Union forces.

At Belmont, in southeastern Missouri, the Union forces under Brig.-Gen. U. S. Grant, made an attack upon the Confederates. This was in obedience to orders from General Halleck, who was in command of the Western Department, with headquarters at St. Louis. After some sharp fighting, the Confederates were re-enforced. General Grant fell back, and re-embarked on his transports. The object of the advance, according to the order from General Halleck, was to threaten, rather than to assail the enemy; and General Grant claims to have accomplished what he undertook. He states the enemy's loss to be greater than his own, and that he brought off 175 prisoners. The object seems to have been to prevent Gen. Jeff. Thompson, who was in command, from re-enforcing General Price. This object was accomplished.

But the greatest disaster to the Union arms during 1861, after Bull Run,

occurred at what is known as Edwards' Ferry, or Ball's Bluff. This point is a few miles above the Great Falls of the Potomac. A force of about fifteen hundred men of Gen. Charles P. Stone's command, in making a reconnoissance, under Colonel Baker, of Oregon, crossed the river at that point. They were met by a greatly superior force of the enemy. They were driven back into the stream, with great slaughter. The Union loss was above nine hundred. The Confederate loss was three hundred. Colonel Baker, the eloquent Senator from Oregon, was among the killed. General Stone was greatly blamed for this disaster. He was slandered because of it, and then most outrageously treated. He was a native of Massachusetts. He was a Democrat. He had served in Mexico with distinction. It was his skill, under the venerable Scott, that established the line of fortifications around the capital for its safety. He was a man of a sensitive nature, and as courageous as he was expert in the art of war. Without probable or any cause, he was arrested on a charge of treason. Although asserting his innocence and demanding a trial, he was released without a word of explanation. Not a word has been given to this day. After the war, he went to Egypt. He is known there as Stone Pasha. He became the chief-of-staff of the Egyptian army. He reconstructed it. He was with the ex-Khedive and the present Khedive in all the early and later vicissitudes of that ill-starred land. He survives nearly all of his detractors and persecutors, and has returned to America, warmly welcomed by all, as a man without a stain and a soldier without reproach. He is now engaged in supervising the erection of the Bartholdi statue, in New-York Harbor. His case, like that of Gen. Fitz John Porter, cries aloud for rectification by a practical remedy, as it has been rectified in history.

On the Atlantic coast, where the navy co-operated with the military arm, the most substantial and permanent successes were achieved. The expedition against Hatteras, on the coast of North Carolina, sailed from Fortress Monroe on Monday, the twenty-fifth day of August. It consisted of the United States steamers Minnesota, Captain Van Brune; the Wabash, Captain Mercer; the Monticello, Commander Gillis; the Pawnee, Commander Rowan; and the Harriet Lane, Captain Faunce. The broad pennant of Commodore S. H. Stringham, the commander of the naval force, was hoisted on the Minnesota. The military force, commanded by Maj.-Gen. Benjamin F. Butler, consisted of 880 men, 500 of whom belonged to the Twentieth Regiment New-York volunteers, under Col. Max Weber; 220 of the Ninth New-York volunteers (Hawkins' Zouaves), under command of Col. R. C. Hawkins; 100 of the Union Coast Guard, commanded by Captain Nixon; and sixty of the Second United States Artillery, under Lieutenant Larned.

The expedition arrived off Hatteras Inlet on Tuesday, the 26th of August. That inlet lies eighteen miles southwest of the Cape. The Confederates had erected two strong fortifications of earth, or sand, near the

inlet; one bearing the name Hatteras, and armed with ten thirty-two pounders, and another piece. The other, called Fort Clark, was armed with five guns. The ships of war opened fire upon the forts, and soon silenced them, and 315 soldiers were landed. Night came on and these men were left in a rather dangerous position. They took possession of the smaller fort, however, and rendered efficient service the next morning. It was believed that the Confederate commander meant to surrender, when the firing ceased; but when one of the smaller vessels approached within 600 yards, Fort Hatteras again opened fire. It was again silenced, however, by the accurate fire from the ships. It then gave the signal for surrender. After some parleying, and insisting on terms, the surrender was made on the single condition that the Confederates were to be treated as prisoners of war. The capitulation embraced the surrender of 715 men, including the commander, Commodore Barron, the acting Confederate Secretary of the Navy, and Major Bradford, the Chief of Ordnance, with the two forts, arms, powder, cannon, cotton, and provisions. But this was the smallest part of the achievement. The surrender opened the North Carolina Sounds, — large inland seas, — with the greater part of the coast of the state. This acquisition was permanent. It was of great importance.

The expedition to Port Royal, in South Carolina, midway between Charleston and Savannah, was on a much grander scale. It consisted of two ships of war, the Wabash and Susquehanna, fourteen gunboats, the frigate Vandalia, and thirty-three transports, which conveyed 15,000 troops. Commodore Samuel F. Dupont commanded the naval force, and Maj.-Gen. Thomas W. Sherman, the military. The latter consisted of three brigades, commanded respectively by Brigadier-Generals, Egbert S. Viele, now a member of Congress from New-York City, Isaac J. Stevens, and Horatio G. Wright. These officers were among the most accomplished engineers of the army. The expedition consisted of fifty vessels. It sailed from Fortress Monroe on the 29th of October. It had been preceded by a fleet of twenty-five coal vessels. The weather was unsettled. It blew a hurricane by the 1st of November. The fleet was scattered. On the next morning, only one sail was visible from the mast of the flag-ship. The wind moderated on Sunday, the 2d of November, and the fleet gradually came in sight, except two of the transports, which sank. Only seven lives were lost. Commodore Dupont, with twenty-five of his vessels, anchored off the bar of Port Royal on the 4th. He proceeded to search for the channel. It was found and buoyed. On the same day the gunboats and light transports passed inside the bar, and were anchored. The Confederate fleet, under Commodore Tatnall, consisted of six gunboats. They took refuge under the guns of the fortifications. The next day the Wabash and Susquehanna, with the larger transports, crossed the bar. The assault on the Confederate works was postponed until the 7th, in consequence of a storm. At half-

past nine o'clock of that day, a heavy cannonade was opened upon the two forts, Walker and Beauregard, and their outposts. They were mounted with heavy guns of the most approved pattern. The bombardment lasted for some hours. The forts were silenced. The landing force found them deserted by their garrisons, who had fled in terror, leaving their clothing, their papers, and even their watches. The loss on the part of the government was eight killed, and twenty-three wounded. The Confederate loss was not known, but it was believed to be far more considerable. The forts contained forty-eight cannon, all but five in excellent order, and of large calibre. A considerable amount of ammunition and stores was also captured. On the 9th, the town of Beaufort was found to be deserted. It was in the hands of the negroes. The town and adjacent islands were occupied by the Union forces, including Tybee Island, at the entrance of the Savannah River. Hilton Head was taken by the troops under General Sherman. It became the permanent base of operations against South Carolina and southeastern Georgia. This almost bloodless conquest, like that of Hatteras, gave a permanent lodgment to the government forces upon the soil of South Carolina, and was a grand strategic acquisition. In each of these successful expeditions, the military accompaniments had little more to do than take possession of the conquests made by the navy.

Military operations upon the Atlantic seaboard, in 1862, commenced with another expedition to North Carolina. The naval force was commanded by Commodore Goldsborough, and the military by General Burnside. Although the Union forces had already secured an entrance to the sounds and rivers of that state, by the capture of the fortifications at Hatteras Inlet, a farther advance in that direction was desirable in order to shelter the war ships and transports from the storms which are apt to be encountered on the coast. With this object in view, a fleet of one hundred vessels, consisting of nineteen gunboats and other small armed vessels, carrying something like seventy-five or eighty pieces of heavy ordnance, together with transports for 16,000 soldiers, steamed away from Fortress Monroe for Hatteras Inlet, on the 12th of January. A high wind, which at length developed into a severe gale, rendered it impossible for all the larger vessels to enter the sound through the narrow and tortuous channel. The result was the loss of some of the vessels, together with valuable lives. The fortifications at the inlet, which were taken in the preceding autumn by General Butler and Commodore Stringham, and manned by the soldiers under them, were still held by the Federal troops, but the great severity of the protracted storm rendered it impracticable for the expedition to proceed further before the 5th of February. On that day the movement against Roanoke Island was begun. This small, low island, about ten miles in length and two or three in breadth, is situated in the strait which connects Albemarle and Pamlico Sounds. The Confederates had fortified it and manned it with a force of between two and three

thousand men. The combined forces of the expedition made the assault on the morning of the 7th. The Confederates, commanded by Colonel Shaw, formerly a member of the United States House of Representatives, made a determined resistance. They were supported by a fleet of gunboats, five or six in number. The fight lasted throughout the day; but on the 8th, Col. Shaw, being assailed in front and rear, found it impracticable to continue the contest. He surrendered, with his garrison of 2,000 men. The forts, six in number, were found to contain forty guns and 3,000 stands of arms. The Union loss was thirty-five killed and 200 wounded. The Confederate loss was reported by them to be sixteen killed and thirty-nine wounded.

The Union gunboats pursued the Confederate fleet, which retreated to Elizabeth City. There it was captured. That town, situated on Pasquotank River, surrendered, also. The old towns of Edenton, at the head of Albemarle Sound, and Washington, on the Pamlico or Tar River, surrendered without a struggle. At the latter place the Union sentiment was found to be very strong. This fact appears from the report of a Confederate officer to his superiors.

Newbern was the next object of attack. It is situated at the junction of the Neuse and Trent rivers. The former is a tributary of Pamlico Sound. The naval force was under command of Commodore Rowan,— Commodore Goldsborough having been recalled to Fortress Monroe. The expedition left Hatteras on the morning of March 12th. It arrived about sunset of the same day at Slocum's Creek, on the south bank of the Neuse, about eighteen miles below Newbern. The landing of the troops was effected the next morning under cover of the gunboats. Then a march of twelve miles, over muddy roads, became necessary before the Confederate line of defense was reached. The road runs parallel with the river. The gunboats rendered efficient service by shelling it, in advance of the march of the troops. The camp was formed that night, one mile and a half from the Confederate works. Early on the morning of the 14th, the Confederate works were assailed along their whole extent of a mile and a half. The fight lasted four hours. Their defenders gave way and retreated up the river, in the direction of Newbern. They burnt the bridges behind them, over the smaller streams, and destroyed the draw of the railroad bridge over the Trent, at Newbern. The retreating Confederate force, consisting of eight regiments of infantry, five hundred cavalry, and three batteries of field artillery, each of six guns, thus escaped capture. They were commanded by Gen. Lawrence O'B. Branch — an ex-member of the Congress — in the absence of General Gatlin, who was sick. They passed on through Newbern, leaving the town to be peaceably taken possession of by General Burnside. In this battle, General Foster took an important part. The Union loss was ninety-one killed, and four hundred and sixty-six wounded. The Confederates, who fought behind breastworks, suffered considerably; but not so

much as their conquerors. They halted in their retreat, at Tuscarora, ten miles above Newbern. General Burnside found the Confederate works defended by forty-six heavy guns and three batteries of light artillery, each of six guns, all of which fell into his hands. Two steamboats, with several sailing vessels, and large quantities of ammunition and military stores were also captured, with two hundred prisoners.

The harbor of Beaufort, the best in the state, with the town of that name, Morehead City, and Fort Macon, a permanent United States fortification which commands the harbor, were surrendered as a consequence of the capture of Newbern. The fort withstood a bombardment of a whole day, when its commandant, Colonel White, with five hundred men, surrendered with the honors of war. It had been seized by the state troops of North Carolina, by order of Governor Ellis, long before the secession ordinance was passed. The loss of life was very trifling. On the side of the government only one was reported killed; and on that of the Confederates, seven were killed and eighteen wounded. The effects of these victories, which closed all the ports of the state, except Wilmington, were permanent. The naval part of the expedition could not penetrate beyond Newbern and Washington. The latter is situated upon the Tar River, not far from Pamlico Sound. The military force was not strong enough to venture further into the interior unsustained by the gunboats; but it is surprising that greater use was not made subsequently of these important conquests on the coast of North Carolina.

On March 8th and 9th the most remarkable battle ever known, up to that time, in the annals of naval warfare was fought in Hampton Roads. The number of vessels engaged was small in comparison with the great naval actions of modern times. But the defensive armor and offensive weapons employed, demonstrated the utter worthlessness of wooden against armored ships in combat. At once, in the twinkling of an eye, a whirling, bewildering revolution in naval architecture was the result.

About one o'clock in the afternoon of the 8th, the Confederate iron-plated steamer Virginia — formerly the United States forty-gun steam frigate Merrimac — is seen coming out from Norfolk. She moves in the direction of Newport News, near which place lie two United States sailing frigates, the Congress and Cumberland. The Merrimac had been scuttled on April 21, 1861, when the Union naval officers abandoned the Gosport Navy Yard. The Confederates soon raised her and transformed her into an ironclad ram of formidable power. Her hull was 275 feet long; about 160 feet of the central portion was covered by a roof of wood and iron, inclining about thirty-six degrees. The wooden part was two feet thick; it consisted of oak plank, 4 by 12 inches, laid up and down next to the iron, and two courses of pine; one longitudinal of eight inches thickness, the other twelve inches thick. The intervening space on top was closed by permanent gratings of 2-inch

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square iron, 2 1-2 inches apart, leaving openings for four hatches — one near each end, one forward, and one abaft the smoke-stack. The roof did not project beyond the hull. The ends of the shields were rounded. The armor was four inches thick. It was fastened to its wooden backing by 1 3-8 inch bolts, countersunk and secured by iron nuts and washers. The plates were eight inches wide and two inches thick. The hull, extending two feet below the roof, was plated with 1-inch iron. The prow was of cast-iron, wedge-shaped, and weighed 1,500 pounds. It was about two feet under water, and projected two feet from the stem. The rudder and propeller were both exposed, with no appliances for protection. The battery consisted of ten guns, four single-banded Brooke rifles, and six 9-inch Dahlgren shell-guns. Two of the rifles, bow and stern pivots, were 7-inch, of 14,500 pounds; the other two were 6.4-inch, 32 pounds calibre, of 9,000 pounds, one being on each broadside. The 9-inch gun on the side nearest the furnace was fitted for firing hot shot. The ammunition for this gun was 9-inch solid shot. The engines were the same which were on the vessel when she was sunk, and were found to be defective. The crew numbered 320, made up principally of volunteers from the army, and thirty officers. The vessel was in command of Flag-officer Frank Buchanan, who had resigned from the Union navy, to go with the Confederacy.

Thus defended against shot and shell, the Virginia presents the appearance of a huge turtle. The fire from the Cumberland, which is the first to be attacked by the monster, has no effect upon its iron-plated sides and roof, or rounded deck. Every shot from the Virginia tells upon the wooden sides of the Cumberland. The firing is immediately followed by a deadly plunge of the ram into the side of the wooden vessel. The broadside fired by the Cumberland just as the Virginia rams her, cuts one of the Virginia's guns off at the trunnions, the muzzle off another, tears up the carriage of her bow pivot gun, sweeps away her anchor, boats, and howitzers, riddles her smoke-stack and steam-pipe, and kills or wounds nineteen men. Bravely done! This is the last broadside of the Cumberland. She is sinking! Her gallant commander, Lieut. George M. Morris, true to his honored name, delivers a parting fire from the stern guns, as his ship is going down heroically, with her colors flying. A hundred or more of the crew are killed in the action, or drowned. The Virginia is aided by several armed steamers, two of which come down the James River, just in time to engage in the conflict.

Having sunk the Cumberland, the Virginia turns upon the Congress, which is already hotly engaged with the gunboats attendant on the ironclad. The commanding officer of the Congress has witnessed the fate of the Cumberland. He heads for shoal water — and grounds! The Virginia now selects a raking position astern of the Congress, while one of the smaller steamers pours in a constant fire on her starboard quarter. Two other steamers of the enemy approach from James River, also firing upon the unfortunate frigate with

precision and severe effect. The guns of the Congress are almost entirely disabled, and her gallant commanding officer, young Lieut. Joseph B. Smith, has fallen at his post. Her decks are strewn with the dead and the dying, the ship is on fire in several places, and not a gun can be brought to bear upon the assailants. In this state of things, and with no effectual relief at hand, the senior surviving officer, Lieutenant Pendergrast, feels it his duty to save further useless destruction of life by hauling down his colors. This is done about four o'clock, P. M. The Congress continues to burn until about eight in the evening, then she blows up. When word comes to the Navy Department that the Congress hauled down her colors, the brave old Commodore Smith immediately says in deep emotion: "Then Joe is dead." His boy went down with this ship.

The Virginia, with her consorts, the Yorktown and Jamestown, now turn their attention to the Minnesota. This vessel has come out from Old Point to assist the Cumberland and Congress, but she also runs aground about three miles below Newport News. In this condition she cannot bring all her guns to bear; but nevertheless, she is regarded as a more formidable antagonist than the Cumberland or Congress. The Virginia is of too deep a draught to get within effective range, but her consorts approach and fire with damaging effect. Soon, however, the frigate gets one of her guns to bear on them. The practice is telling. They haul off crippled and head towards Norfolk, with the Virginia, at nightfall. All efforts to get the Minnesota afloat during the night and into a safe position are totally unavailing. The morning is looked for with deep anxiety, as it will, in all probability, bring a renewed attack from the formidable assailants.

At nine o'clock the same night, the newly finished ironclad Monitor arrives at Fortress Monroe from New-York, under command of Lieut. John L. Worden. Her appearance is not anticipated. It may be that her existence is unknown to the Confederates. About midnight she takes position by the side of the Minnesota. As anticipated, next morning, at six o'clock, the Virginia, with her consorts, comes out from Norfolk. She opens fire on the Minnesota. She does not see the little Monitor lying behind the frigate. Soon the Monitor appears. She is an object of curiosity, if not of ridicule. She lies so low, and is so small, that surely she will not attempt to cope with the Virginia. The commander of that vessel, which would have been more than a match for the finest ship in the English or French navy, observes what confronts him. It is an insignificant looking little nondescript. It resembles a raft with a cheese-box on it. No such man-of-war was ever before seen. It advances to meet the Virginia. Was there ever such impudence! A mingled feeling of curiosity and contempt runs through the officers of that vessel. The very waves seems to laugh at the odd and audacious craft. But it is soon found that the Virginia has a foe not to be despised; one entirely worthy of her highest prowess. Promptly obeying the signal to at-

tack, the Monitor runs down past the Minnesota, to lay herself close alongside the Virginia, between that formidable vessel and the Minnesota. It is the contest of David and Goliath over again. The Virginia is accompanied by the Yorktown and Jamestown. The two latter are crowded with troops, come to board and capture the Minnesota. It is a gala day in Norfolk. Everybody is in high glee over the expected victory and prizes. Will the expectation be fulfilled? A shot from the Monitor arrests the advance of the Yorktown, but the Virginia continues to approach. She is within a hundred yards of the daring little antagonist. At this distance the engagement begins. It lasts several hours. It is a furious cannonade. It is hot and close. The vessels fight within from fifty to two hundred yards of each other. The Monitor carries but two guns, against the Virginia's eight. The revolving turret enables the Monitor to be ready for the "occasion sudden." It is blow for blow. This tends to equalize the conditions of the duel. The Virginia finds the Monitor impenetrable to shot and shell. She therefore attempts to run her down. She fails in this. The Monitor avoids the blows of her enemy. She still deals point-blank shots at short range against her ponderous antagonist. At length the Virginia stabs the Monitor in the side. She thrusts in vain. No damage results. The Monitor spins round like a top. She soon obtains her bearing again, and sends one of her formidable missiles into her huge opponent. By this time the officers of the Monitor have acquired complete confidence in her impregnability. They no longer fire at random or hastily. The Monitor works round the Virginia, repeatedly probing her sides. She seeks for weak points, and reserves her fire with coolness, until she has the right spot. Now she steadies for a telling blow. She takes the exact range. Crash! crash! crash! three shots are dealt in this deliberate way. Ho! ho! the Virginia will take no prize to-day! She is overmatched. She now resorts to retreat. She is swifter than the Monitor. She will try the Minnesota again. She turns to renew the attack on that vessel. The Monitor will not permit this. She comes up and takes position between the two ships. She again makes the Virginia feel her prowess. Where are the consorts of the latter? They may go back with their boarders. It is now high noon. The four hours' conflict is over. The Virginia is seriously damaged. Like a wounded giant, she moves off for Sewell's Point, at full speed. The Monitor follows for some distance, but she is outstripped in the race. She abandons the pursuit and returns to the Minnesota. *Viva! viva!* little Monitor!

The story of this conflict is the romance of the war, where mechanism and genius gave so much invincibility to the Northern cause. The Confederates were under the impression that the thrust of the Virginia's ram had inflicted serious damage upon the Monitor; but this was not the case. She sustained no injury; while, on the other hand, one Confederate authority states that the Virginia lost her iron beak in her plunge at the Monitor.

The Virginia lost her ram and sprung a leak. The same writer boasts that the Monitor ran off in a crippled condition. The Committee on Naval Affairs, of which the writer has recently been chairman, reported upon this remarkable fight, in order to adjust a claim for prizes. The examination resulted in an able paper from Judge Ballantine, of Tennessee, which sustains one view; and the opposite view is presented in the paper of Mr. John R. Thomas, of Illinois, which asserts that the Monitor had not sensibly disabled the Virginia. Both reports are reconcilable with the facts; for, although the Virginia was disabled in some regards and required some repair, she was not altogether disabled. There can be no question as to the ability and gallantry with which the two armed vessels were fought. But it will always remain an open question as to the extent of damage done the Virginia. The Monitor came out unscathed.

The merit of having invented or planned the armor of the formidable Confederate iron-clad is due to Lieut. John M. Brooke, of the Confederate States Navy. The meed of high praise need not be withheld from an improvised and wonderful achievement in naval architecture which could have destroyed a fleet of ordinary wooden vessels, because it was immediately surpassed, as a factor in naval warfare, by the marvelous invention of the Monitor. Both inventions are American. America may well be proud of them. An American boy named Timby invented the revolving turret twenty years before. This was in 1841, when he was only nineteen years old. He caught the idea in crossing the ferry from New-York to Jersey City. In passing Castle William, it occurred to him that a similar structure of iron, on a revolving base, could bring all its guns to bear on any part of the channel. He filed a caveat for his invention in the Patent Office on Jan. 18, 1843. The same year he exhibited a model before President Tyler and his Cabinet. Mr. Jefferson Davis was one of the gentlemen who thought well of the invention. Mr. Timby went to France with his model. He exhibited it to the Emperor Napoleon III. But it remained for the genius of Ericsson to apply the revolving turret in actual warfare. How well he executed the design, the battle just described tells;—that battle of the Triton and the minnow in Hampton Roads, in 1862, in which the minnow won. It would seem, from this miraculous result, that the great northern cities of the sea-board escaped bombardment through the genius of Ericsson and the intrepidity of the gallant Worden and his crew. History records no event so providential in its bearing upon the destiny of this hemisphere. It demonstrated the worthlessness of wooden navies. The governments of Europe began at once to devise plans, in projectiles and armor, and to remodel their ships of war upon the new American patterns.

CHAPTER IX.

THE PROGRESS OF THE WAR — 1862.

CONQUESTS ON SOUTH CAROLINA AND GEORGIA COASTS — MISSOURI RELIEVED — GENERAL SAMUEL R. CURTIS AT PEA RIDGE — HIS SPLENDID SERVICES AND VICTORIES — BATTLES IN KENTUCKY — FALL OF FORTS HENRY AND DONELSON — FLOYD AS A GENERAL AND A FAILURE — TENNESSEE OPENED — NASHVILLE OCCUPIED AND ANDREW JOHNSON GOVERNOR — SHILOH AND ITS RESULTS — OPERATIONS IN TENNESSEE — HALLECK SUBORDINATES GRANT — VIRGINIA CAMPAIGN — McCLELLAN IN COMMAND — HIS DIFFICULTIES IN FRONT — EMBARRASSMENT AT WASHINGTON — CHANGE OF BASE TO THE JAMES RIVER — NORFOLK OCCUPIED — THE AUTHOR'S PERSONAL OBSERVATIONS — HON. JOHN S. MILLSON AT HOME — THE BIG RAM "VIRGINIA" BLOWN UP — FITZ JOHN PORTER'S MOVEMENTS — McCLELLAN, McDOWELL, POPE, BANKS, FREMONT, SUMNER, JOSEPH E. JOHNSTON, LONGSTREET, JACKSON, EWELL, THE HILLS, AND OTHER GIANTS IN THE FIELD — MANŒUVRES AND DISASTERS — GREAT SLAUGHTER — MALVERN HILL BATTLE—RICHMOND NOT TAKEN—McCLELLAN REMOVED—SECOND BULL RUN — MARCH INTO MARYLAND — WASHINGTON THREATENED — McCLELLAN RECALLED — ANTIETAM — SURRENDER OF HARPER'S FERRY — BATTLE OF CHATTANOOGA — KIRBY SMITH IN KENTUCKY — FRANKFORT TAKEN AND CINCINNATI THREATENED — THE SQUIRREL CAMPAIGN AND A RACE FOR CONGRESS — BRAGG FORAGING IN KENTUCKY — VAN DORN AND CORINTH — ROSECRANS AND BRAGG AT STONE RIVER — GENERAL STUART'S CAVALRY INVADE PENNSYLVANIA — GREAT BATTLE AT FREDERICKSBURG — BURNSIDE DEFEATED — FARRAGUT AND BUTLER ON THE LOWER MISSISSIPPI — NEW ORLEANS CAPTURED.

DURING the year 1862, the conquests on the coasts of South Carolina and Georgia were considerably advanced. The most important of these, however, was the recapture of Fort Pulaski. It was one of the two principal fortifications which defended the approaches to Savannah from the sea, by the river. This achievement reflected great honor upon the enterprise and courage of the military and naval forces. Fort Pulaski is on a small island at the mouth of the Savannah River. Outside is Tybee Island. On this island, Gen. Quincy A. Gillmore, commanding the Union forces, erected works with siege guns bearing on the fort. Capt. John Rogers, who was in command of the gunboats, contributed

largely to the success of the operations. The bombardment of Pulaski took place on the 10th of April. It lasted eighteen hours, when the commander, Col. Charles H. Olmstead, of the First Georgia volunteers, surrendered. The capture of that fort put a stop to blockade-running at Savannah.

An expedition was fitted out against the coast of Florida. The result was the capture of Fernandina, Jacksonville, St. Augustine, and St. Mary's on the east coast, and Cedar Keys on the west. The command of the whole eastern coast of the state was secured. Darien and Brunswick, in Georgia, were also taken possession of without resistance.

The spring of 1862 was signalized by several important Union victories in the Western States. In Missouri, General Curtis and Gen. Jefferson C. Davis drove back the Confederate forces under General Price, and took possession of Springfield. These operations took place on the 12th and 13th of February, and on the 18th General Price retreated across the Arkansas line. He was closely pursued by General Curtis, a skillful West Point soldier of rare endowments. On the 19th, Price formed a junction with the forces under Gen. Ben. McCulloch. With this re-enforcement he turned about to face the enemy at Sugar Creek, but soon gave way. On the 26th, Price and McCulloch were driven from a strong position at Cross Hollows. There they left their sick and wounded, after burning their barracks. Fayetteville, in Arkansas, was taken, with a large number of prisoners and military stores. Again the Confederates turned upon their pursuers, but they met with a great defeat at Pea Ridge, in northwestern Arkansas. They were commanded by General Van Dorn, aided by Generals Price, McCulloch, and McIntosh. The Confederates concede that the force under Van Dorn amounted to 20,000 men, while they hold that the Union force under General Curtis was 25,000. On the other hand, the Unionists claim that Curtis commanded only 10,500 men, and that the force of the enemy was twice as great. The battle was fought on the 7th and 8th of March. It was one of the first signs of the value of a trained military commander and engineer. It resulted in the rout of the Confederates. They lost 1,000 in prisoners, and many killed and wounded. The Union loss was 212 killed, 926 wounded, and 124 missing. The Confederates retreated behind the Boston Mountain, and were not pursued. The effect of this victory seems to have been to push the seat of war west of the Mississippi, and from the soil of Missouri to that of Arkansas. The general officers under Curtis were Sigel, Jefferson C. Davis, and Asboth. Colonel Osterhaus was in command of a division and rendered important service.

The Union forces under Gen. George H. Thomas gained a signal victory on the 19th of January, over the Confederates under Gen. George B. Crittenden, at Webb's Cross Roads, near Mill Springs, in southeastern Kentucky. Among the Confederate killed was General Zollikoffer. He was

second in command. He had been a member of the Thirty-fifth Congress. The forces which achieved this victory were sent out by General Buell, commanding the Ohio Department. They consisted of the Ninth Ohio, Colonel McCook; the Second Minnesota, Colonel Van Cleve; the Fourth Kentucky, Colonel Fry; the Tenth Indiana, Colonel Munson; the Fourteenth Ohio, Colonel Steadman; and the Tenth Kentucky, Colonel Haskin; with two batteries under Captains Stanhart and Wetmore.

Fort Henry, on the Tennessee River, near its mouth, was captured by Commodore A. H. Foote, on the 6th of February. The garrison consisted of four or five thousand men. They abandoned the fort soon after the fire from the gunboats commenced, and before the strong land force under General Grant could get up to it through the mud and high water which impeded its progress. They thus escaped,—except eighty-three men, including General Tilghman,—but left behind a large amount of cannon, small arms, and stores. Only two Unionists were killed and nine wounded; while the Confederates lost but five killed and ten wounded. Commodore Foote and his men received the thanks of Congress for this exploit, which opened the Tennessee River to the forces of the Union. A fleet of gunboats, under Commander Phelps, immediately advanced up the river as far as the Muscle Shoals, in north Alabama. They destroyed the railroad bridges, and captured or destroyed several steamers and other Confederate property.

The capture of Fort Donelson by the Union forces under General Grant took place on the 16th of February. It required hard fighting. It involved the loss of 1,200 men in killed and wounded on each side. Gen. John B. Floyd, the commander-in-chief of the Confederates, together with General Pillow, his second in command, departed, on the night of the 15th, taking with him some two or three thousand men. He turned over the command of the fort, with the bulk of his army, to Gen. S. B. Buckner; and from Murfreesborough, 200 miles away, he describes this desertion of his command, in his official report, as a heroic exploit. He states, that it was unanimously agreed in a council of war that to renew the conflict, after the slaughter of the day, would be vain. He thought, and announced, that a desperate onset upon the enemy's right, where the morning attack had been made, might result in the extrication of a considerable proportion of the command; but it was likewise agreed that it would result in the destruction of all who did not succeed in effecting their escape. It is not for the writer of these annals to make comparisons as to generals or battles. He proposes only to state results, not to criticise or impugn the conduct of battles. But the writer has yet to see any defense of General Floyd's action on this occasion. The fall of Fort Donelson was one of the notable causes which helped to discourage the Confederacy. General Floyd's conduct on this occasion, has always seemed strange. While not unwilling to sacrifice the army under his command, and having, as he said, "the right individually to determine" that he

"would not survive a surrender," why should he turn the command over to Buckner, and retreat in the night? Mr. Davis, in his message, dated March 11th, to the Confederate Congress, showed great dissatisfaction with the conduct of Floyd. He could not understand, with the incomplete returns at hand, "upon what authority or principles of action the senior general abandoned responsibility, by transferring the command to a junior officer." General Buckner surrendered about ten thousand men, with large military stores of heavy guns, small arms, ammunition, and provisions. This capital achievement of General Grant led to others. Bowling Green, in Kentucky, was abandoned. It was taken by General Buell. Nothing now intervened to prevent the gunboats from going up the Cumberland to Nashville, the capital of Tennessee, situated in the heart of that populous and wealthy state. The legislature and governor, anticipating the speedy fall of the city, retired to Memphis, taking with them the state archives and the public money.

In March, the Union forces, by land and water, under the command of General Pope at the head of 40,000 men, inflicted irreparable damage upon the Confederate cause by the capture of New Madrid and Island No. 10, on the Mississippi, about fifty miles below Cairo. These places were thoroughly fortified and defended by several thousand men. By their capture, 5,000 prisoners, with more than a hundred pieces of heavy ordnance, thousands of small arms, and a vast quantity of ammunition and commissary stores, fell into the hands of the Union forces. Clarksville, a considerable town on the Cumberland, half way between its mouth and Nashville, was taken by the gunboats under Commodore Foote. It was taken without resistance, and garrisoned by troops sent up by General Grant, under the command of Brigadier-General Smith. From this point General Smith, under the convoy of a gunboat and transports, proceeded up the river to Nashville. No opposition was made to his landing. On the same day, the advance of General Buell's force, from Bowling Green, Kentucky, arrived. The stars and stripes had been raised on the capitol on the 24th of February, and Andrew Johnson was a few days afterwards appointed military governor by President Lincoln, with the rank of brigadier-general. Nashville is situated in a section of country of unsurpassed fertility. It had been made by the Confederates a principal depot for their arms and stores. These fell into the hands of the government forces. They supplied General Buell's army with an abundance of necessaries, after the toilsome march from Kentucky. The wedge had been deftly inserted. Its effect was to open the way to Memphis, and to the whole lower Mississippi. Upon the 4th of June, Forts Randolph and Pillow were evacuated by the Confederates, after a desperate struggle on the river between the gunboats of the opposing forces. In this engagement a Confederate ram well-nigh destroyed the principal boat of the government,—the Cincinnati; but finally the rams and other boats of the enemy were silenced or destroyed.

Pittsburg Landing, or Shiloh, is situated a few miles above the old town of Savannah, on the Tennessee River. A pivotal battle was fought here on the 6th and 7th of April. It resulted in a decisive victory for the Union forces under Generals Grant and Buell. There was a heavy loss of life on both sides. At the close of the first day the Confederates, who were certainly in stronger force, had driven the Unionists from nearly every foot of ground occupied by them in the morning. They captured all their heavy artillery, camp equipage, and 2,000 prisoners, including the commander of a division, General Prentiss. General Grant, however, rallied his forces, who were being driven back to the river, and held his ground until the timely arrival of two gunboats from below, and of General Buell with a re-enforcement of 20,000 men. The gunboats, by shelling the enemy, and promptly landing a portion of Buell's force, stop the advance of the foe. This revives the spirits of the Unionists, just as night is coming on. Early the next morning General Grant, with the aid of Buell's corps, and of the division commanded by General Lew. Wallace, which arrived during the night, is enabled to take the offensive. A simultaneous advance upon the enemy is made along the whole line. The Confederates make desperate efforts to hold their ground; but the odds are now against them. They are beaten back. Five o'clock in the afternoon finds them retreating south, in the direction of Corinth. No pursuit is made by the exhausted Union forces. Most of the guns, flags, and camp equipage captured by the Confederates the first day, are abandoned in their retreat. These spoils fall again into the hands of the Unionists. But the Union prisoners, 3,956 in number, are sent off. The Union loss was 1,735 killed, 7,882 wounded, and, as above stated, 3,956 prisoners; total, 13,573. The Confederate loss was 1,728 killed, 8,012 wounded, and 959 missing; total, 10,699. The Confederates lost in this battle, their commander-in-chief, Albert Sidney Johnston. He was regarded by Jefferson Davis and others as their ablest general.

On the 8th of June, Mr. Davis announces to the Confederate Congress, "that it has pleased Almighty God to crown the Confederate Arms with a glorious and decisive victory over our invaders." In the same message he deplores the loss of General Johnston as irreparable. Mr. Lincoln, on the 10th, with better reason, issues a congratulatory proclamation, saying: "It has pleased Almighty God to vouchsafe signal victories to the land and naval forces engaged in suppressing an internal rebellion." Are there two Gods, — a God of the hills and a God of the valley? On the 8th of June, Gen. William T. Sherman followed the retreating foe. He took the Corinth road. It was badly cut up, in consequence of heavy rain. He found the way strewn with abandoned wagons, ambulances, and camp equipage, and gave aid to a crowded Confederate hospital.

Major-General Halleck, whose headquarters had been at St. Louis, now came to Pittsburg Landing. He assumed the command of the army. He

brought with him, or gave orders to follow him, re-enforcements under the command of General Pope, amounting to 25,000 men. He immediately prepared for an advance upon the enemy at Corinth. This was a fortified place situated at the junction of the Memphis and Charleston Railroad with the Mobile and Ohio, some miles south of the scene of the recent battle. General Beauregard, who was second in command to General Johnston, took the place of that officer. On the 2d of May, he issued a stirring bulletin to his troops, in which he claimed the victory on the field of Shiloh.

The arrival of Halleck subordinates Grant. Serious complaints are made against the former. According to General Sherman, General Grant thinks of asking to be relieved from duty in that quarter. He, however, yields to the appeals of Sherman, and remains as second in command. The entire force under General Halleck is said to be 108,000. The Confederates are also re-enforced. They have gathered an army of 80,000 men, in and around their fortifications at Corinth. This place, naturally strong and strongly fortified, is provided with every appliance of war. But it is doomed to destruction by the hands that made it. About the last of May the Confederates blow up and destroy millions' worth of military stores, which cannot be carried off in their retreat. In a dispatch from General Halleck to the Secretary of War, dated May 30, it is stated that the enemy's position and works in front of Corinth were unexpectedly strong. It is the opinion of Halleck that the enemy cannot occupy a stronger position in his flight. An immense amount of public and private property, stores, provisions, wagons, tents, and other material have been destroyed by the enemy. For miles out of the town the roads are filled with arms, haversacks, and equipments of all sorts, thrown away by the flying troops. The deserters and prisoners taken amount to nearly two thousand. The victorious Union troops march into the town on the 30th of May. The enemy is pursued by the cavalry, under General Pope, for about twenty-five miles, but without results.

The results of General Halleck's campaign were less fruitful than might have been expected. True, the Confederates were driven out of west Tennessee. They were forced to sacrifice large quantities of military stores with great loss of prestige. But beyond these advantages to the Union cause, none were tangible. The Confederates, under Bragg, turned back toward the north instead of the south. They threatened Louisville. This movement caused a dispersion of the great army under Halleck. Buell was sent in pursuit of Bragg, Grant remained in west Tennessee, and Halleck was recalled to Washington to take the chief command of the army.

During these operations in west Tennessee and north Mississippi, Gen. O. M. Mitchell, the astronomer, was in command of a division of General Buell's army. He marched from Nashville, by way of Shelbyville and Fayetteville, to Huntsville, Alabama. The last named place he captured without bloodshed. He first struck the Mississippi and Charleston Railroad four

miles from the town. There he stopped, and took possession of a railway train, with 159 prisoners. At Huntsville he quietly took possession of a large amount of rolling stock, including seventeen engines and a great number of passenger and freight cars. This enabled him to take possession of about one hundred miles of the railroad, and thus to cut off Confederate communications between the east and the west.

At the opening of the year 1862, the army immediately under the command of Gen. George B. McClellan was in Virginia, around Washington. It numbered about two hundred thousand. That of the Confederate general, Joseph E. Johnston, was something like one hundred and seventy-five thousand strong. It confronted the Union army from Acquia Creek to Winchester. The campaign opened by movements on the part of the Union forces against the left wing of the Confederates. The latter retired, without making serious opposition. They desired a concentration of their forces at Gordonville. They hoped to draw the Unionists away from their base of supplies. Even Centreville and Manassas were abandoned. Long before the Confederates had fallen back there had been a clamor for a movement of McClellan's army. The President had issued a general order to that effect, early in February. It was premature. On the 11th of March, 1862, the President issued another order announcing that General McClellan having personally taken the field in command of the Army of the Potomac, would be relieved from the command of the other armies of the Union; and that the generals in command of the latter would in future report directly to the Secretary of War. This order was regarded as a great injustice by General McClellan and his friends. Whether so intended or not, it weakened him for the expected conflict. It was the beginning of the indignities which were consummated in his final removal from command.

The objective point of General McClellan was Richmond. It had been his intention to flank the Confederates at Manassas by a movement on Urbana. The retirement of the latter to Gordonville induced him to make his advance from a base on the James or York rivers. He thought that by taking his army to that base by water, he would reach it sooner, and with less loss, than by fighting his way on the line Grant afterward took with such terrible loss of men. Like McClellan's, Grant's movement was for a base on the James River, in case of being unable to carry Richmond by assault. Had McClellan followed the Confederates as Grant did, his campaign would have been like that of the latter, with probably the like result, — a base at City Point on the James River. Before McClellan embarked for the peninsula it had been decided in a consultation of corps commanders, that 45,000 men would be necessary for the defense of Washington. He afterwards stated that he had left behind 70,000. This included the forces in the Shenandoah valley. With 85,000 men he arrived at Fortress Monroe. It is the objective point of vantage. It is situated on a point of land between the

York and James rivers. The peninsula formed by the junction of these streams with the waters of Chesapeake Bay is about fifteen miles in width. It is cut up by tributary streams which empty into the bay or these rivers. Fortress Monroe, at Old Point, is on the extreme end of the peninsula, and is separated from Hampton by a creek. Yorktown is a few miles from the mouth of the York River, on its southern side, and within the peninsula. Yorktown was strongly fortified. It was defended by fifty-six heavy guns, which rendered it impracticable for the Union gunboats to ascend the river. The country is flat, and in the spring the roads are impassable. It was necessary to corduroy them, before moving the siege ordnance over them.

A movement up the James was not considered practicable. Transports would have to run the chances of destruction by the Confederate iron-clad ram, the Virginia. This famous vessel had been repaired and strengthened since her encounter with the Monitor. It was doubtful whether the latter was a match for her, and no other vessel of the Union navy would dare to encounter her. Indeed, while part of McClellan's army was at Fortress Monroe, this famous Confederate ram came out and cleared Hampton Roads of all Federal shipping, thus showing the impracticability of a Union advance on Richmond by the James River.

Under these circumstances, General McClellan formed the plan of landing McDowell's corps on the north bank of the York, and passing around the fortifications at Gloucester Point, opposite that town. Thus he would turn the enemy's left, and hem him in between the two rivers. His plans are ready for execution, when he is astounded by the information that McDowell's corps has been withdrawn from his command. On his earnest appeal, a division of that corps, consisting of 11,000 men, is sent forward; but this force is not deemed sufficiently strong to carry out the plan.

The history of the fitting out of this peninsular campaign shows that the President and Cabinet entertained fears for the safety of the capital. It had been intimated to the former that McClellan's movement would greatly endanger the capital. President Lincoln was privately urged to remove McClellan. Having no reason to doubt the ability of the general whom he appointed, the President declined to remove him. He had hitherto resisted the cabal which the author anathematized in his Bull Run speech. He long sustained, against the clamors of the press and Republican politicians, his faith in General McClellan. But it was believed by many that the Secretary of War, from whatever cause, not only failed to give a frank and cordial support to that general, but sought to have him removed. A similar jealousy of General Grant and General Sherman sprang up afterwards in the mind of the same secretary.

The next movement of General McClellan was to lay siege to Yorktown. Great preparations were made for this purpose. The heaviest siege guns were trained to bear upon its fortifications. But just when the guns were

ready to be brought into play, the Confederates, foreseeing the result, evacuated their works, not only at Yorktown, but entirely across the peninsula. A month had thus been consumed. This place, with the aid of McDowell's corps, might have been taken almost immediately. In the meantime the Confederates strengthened the fortifications of Richmond. They brought up re-enforcements from the south and west. The Union loss in the siege operations was 300 men. The Confederate loss was probably as great, together with seventy-three cannon, some of large size.

Williamsburg, the old capital of Virginia, is situated in the midst of the peninsula. It is about ten miles southwest of Yorktown. It is a small town, but has historic interest as the seat of the old colonial government, and of William and Mary College. Here the House of Burgesses used to meet. Here Patrick Henry, "the forest-born Demosthenes," electrified the continent, in 1765, with his superlative eloquence. The Confederates made a stand at this historic spot. There was hard fighting here on the 5th of May. The Union side probably lost more men than the Confederates, owing to the fact that the latter fought behind earth-works, and the Unionists in the open field. The battle of Williamsburg was one of the most hotly contested engagements of the war. The Confederates were well supported by artillery, while the Union troops fought solely with muskets. The Confederates had slashed the timber for a mile in front of their works. Over this the Union troops had to advance under a galling fire of musketry and cannon. It rained the night before, and all day during the battle. The roads were so badly cut up that they were impassable for even twelve-pound field pieces. Only one light battery could be brought up where the fight was hottest. The divisions of Heintzelman's corps, under Generals Hooker and Kearney, bore the brunt of the battle. But some other Union brigades participated, — among them that of General Hancock. Heintzelman's corps suffered severely in killed and wounded. Here the famous New-York Excelsior Brigade, and the Second New Jersey Brigade, won their first warlike glory. The main body of McClellan's army was not engaged in this battle. During the night and following day, the Confederates evacuated their works around Williamsburg, and then leisurely retired towards Richmond, leaving many dead in the entrenchments, and wounded in the houses and hospitals of that town.

Immediately following these events, the Confederates evacuated Norfolk. This took place on the 10th of May. The city was quietly occupied by the Union forces under Gen. John E. Wool, who had organized a force for its capture. The writer, in company with a score of members of Congress, visited Norfolk a few days after its occupation by the Unionists. There was a moodiness about its inhabitants as if they felt their doom impending. After a quarter of a century, — the chill of that visit remains. The writer then visited Mr. John S. Millson, by whose side he had the honor to sit in

the Thirty-fifth and Thirty-sixth Congresses. Mr. Millson was a man of good conscience, and of metaphysical refinement in argument. He foresaw the disasters to the South in consequence of her precipitate action. The writer found him in a rear room of his home. He was broken in spirit and reserved in manner. He was another man. He had been a self-confined prisoner, seldom going out of his house among the people by whom he was once so beloved, but who no longer cherished his wisdom or trusted his counsel. It was the writer's first observation of a conquered city. It was worse than a battle-field. The leaden impression was doubled by the gloom upon the faces of some hundreds of slaves, who were huddled in a camp and famishing for rations. This was one of the fatalities of domestic conflict.

Before Norfolk was evacuated the Confederate iron-clad ram Virginia was abandoned and blown up by its commander; and at the same time, the strongly fortified works on Craney Island were abandoned. The Union forces were thus left in complete control of the James River, and other Virginia waters. In Norfolk, Craney Island, and other fortifications upon the James River, the Confederates left one hundred and twenty-six cannon, in excellent order.

While Heintzelman was engaging the enemy at Williamsburg, McClellan sent General Franklin's division, on transports convoyed by gunboats, up the York River to West Point, where that broad, deep stream is formed by the junction of the Mattapony and the Pamunky. The force of ten or eleven thousand men was landed on the south side, at a place called Brick House Point, which lies immediately opposite West Point, the latter town being in the fork of the two rivers. A battle was here fought on the 7th of May, in which Franklin was the victor. This success made the lower part of the peninsula untenable for the Confederates; therefore they concentrated their forces in Richmond, while McClellan cautiously advanced upon it.

The Union gunboats, including the Monitor, at once proceeded to break the blockade of the James River. This was soon accomplished up to Drury's Bluff, within eight miles of Richmond. At that point the gunboats were repulsed by the fire from the Confederate batteries, situated upon a high bluff, far above the level of the river.

The army under General McClellan continued to advance steadily in the direction of Richmond. By the 15th of May a portion of it had reached the "White House," situated on the Pamunky River, about twenty miles from the city. At this place the railroad from West Point to Richmond crosses the Pamunky. But the "White House" acquired historic renown more than a century before it became identified with the great events of 1862. It had been the home of Mrs. Martha Custis, who became the wife of General Washington. The property is said to be still in the family. It was here that the future Father of his Country, when a gallant young officer in the service of

the colony, made love to the charming young widow. She was the possessor of a large estate and of priceless virtues. It is said that the President's mansion in Washington took the name "White House," from her old Virginia home on the banks of the Pamunky.

The Confederates retreat across the Chickahominy. That stream lies north of Richmond, and flows into the James River, a few miles above Williamsburg. General McClellan following, the retreating enemy crosses the Chickahominy at Bottom Bridge and the railroad bridge. The first of these crossings is fifteen miles from Richmond, and the second about ten. He continues to advance, until within seven miles of the city. Skirmishing now begins along the lines. Heavy rains are rendering the roads, in that low, marshy country, almost impassable for wagons and gun-carriages. Pending these movements, General McClellan receives an order from the War Department, dated May 17th. It informs him that General McDowell will co-operate with him, by marching directly across the country, from the vicinity of Washington. He is directed to form a junction between his right wing and the left wing of McDowell. McClellan sends forward Morrell's division of Fitz John Porter's corps, on the 27th of the month, in the direction of Hanover Court House. This place is situated eighteen or twenty miles north of Richmond. The force is commanded by General Porter. Two encounters are had with the enemy. The latter is driven off, after a loss in killed and wounded of between two and three hundred on each side, and of five hundred prisoners by the enemy. The principal battle is at Peake's Station, fifteen miles from Bowling Green, to which place the army of McDowell has advanced. Rendering difficult the junction with the latter, the order comes from Washington to burn the bridges by which alone the re-enforcement could come. At the last moment, when the corps is ready to carry out the President's order to form the junction with McClellan, another order comes, dated May 24th. This order directs McDowell to suspend his movement toward Richmond, and to turn to the aid of Banks, who is hard pressed in the Shenandoah valley by Jackson and Ewell. Banks had been weakened by the withdrawal of Shields' division, which was sent to join McDowell; and now that division, with McDowell's corps, was to be turned back. General McDowell promptly obeys the order; but he takes occasion to point out to the President the impossibility of reaching the valley in time to render Banks any assistance; and that in the meantime the great opportunity of taking Richmond by co-operation with McClellan would be lost. This withdrawal of the assistance of McDowell's corps is regarded by General McClellan, and by Prince de Joinville who accompanied him, as fatal to the campaign. Here again, may be perceived the awkward hands of the unmilitary politician.

Meantime, Gen. Thomas J. Jackson ("Stonewall") and General Ewell are concentrating for the capture of General Banks, whose force is now re-

duced to about 6,000 men. Their plan is to get in his rear, and intercept him in his attempt to retreat to Winchester. Banks, however, anticipates their plans and, by a timely move and some desperate fighting, manages to make good his retreat to the Potomac. The authorities at Washington are thoroughly alarmed by the movements of Jackson. Stanton, the Secretary of War, makes an earnest appeal to the Northern governors to forward, without delay, all the militia at their command. The governors promptly respond, and within twenty-four hours several thousand fresh men are ready to march to the defense of Washington. The pursuit of Banks by Jackson was prompted by the purpose of preventing McDowell from re-enforcing McClellan. The strategy was successful. The succeeding attempt of the Confederate general upon Harper's Ferry was repulsed, after repeated assaults.

It soon became necessary for Jackson to look out for his own safe return. Fremont was crossing the mountains from the west, while General Shields' division menaced him from the east. At Cross Keys, near Harrisonburg, a severe but indecisive engagement took place. The Confederates were repulsed and pursued by Fremont for a few miles, when the latter turned back, by way of Harrisonburg, to New Market. The forces on each side were twenty to twenty-five thousand men. Jackson retreated, having accomplished his object of drawing off re-enforcements which were intended for McClellan.

On the 25th of May, General McClellan issued an order, announcing to his troops that he was about to cross the Chickahominy. He required them to be ready for battle at a moment's notice. They were to carry three days' rations in their haversacks, and to leave their knapsacks with their wagons. They were enjoined to be cool, firm, and to preserve compact order; to aim low, and rely on the bayonet. On the same day he completes the repair of the bridges across the Chickahominy. He orders an advance in the direction of Richmond. He expects to provoke an engagement; but McClellan, supposing that General Jackson had come over from the valley and united his forces with those of Lee, the general advance is not rapid. In the meantime Casey's division and other Union troops have crossed the Chickahominy, and are encamped at Fair Oaks, where they are afterwards suddenly attacked and routed by the enemy in overwhelming force. The Confederates, finding that McDowell's corps has not formed a connection with McClellan, decide to attack the latter. A new arrangement is again made by the Washington authorities. McDowell's corps is made a part of the Army of Virginia, to be commanded by General Pope, and with headquarters in front of Washington.

Resulting from the crossing of the Chickahominy was the great battle which took place on May 31st and June 1st at Fair Oaks and Seven Pines. Like that at Pittsburg Landing, it resulted in defeat to the Union forces on

the first day, with a recovery of the lost ground and the defeat of the enemy on the second. And as in the one battle the Confederate commander, Gen. Albert Sidney Johnston, was killed, so in the other the Confederate commander, Gen. Joseph E. Johnston, was seriously wounded, and compelled to leave the field. The Confederates fell back upon the works around Richmond after the fight. The Unionists were in no condition to attack these formidable defenses. If the entire force under General McClellan could have been brought over the Chickahominy on the second day, he might possibly, but not probably, have carried Richmond by assault. But the order to cross came too late, in view of the heavy rains, which swelled the stream. A part of the force on the north side, under General Sumner, arrived in time on the afternoon of the 31st to prevent disaster. He turned the tide of victory on the day following, just as General Buell's appearance on the field of Pittsburg Landing changed the fortunes of that day. There may have been reasons for leaving Casey's division exposed to the attack of so strong a force, when the bulk of the army had not passed over the river, which are not apparent to the casual reader. The Confederate loss in killed and wounded was estimated at 8,000; the Union at 5,000 men.

Active operations against Richmond are now suspended until near the middle of the month of June, when, on the 13th, Gen. J. E. B. Stuart is sent on a reconnoissance in rear of the Union position, at the head of 1,500 cavalry. He crosses the Chickahominy. He sweeps round to Ashland and Hanover Court House. There he encounters small bodies of Union cavalry. They give way before his superior force. Whatever government property comes in his way is carried off or destroyed. Turning then to the east, he destroys some transports near the mouth of the Pamunky River, as well as commissary stores. After making a narrow escape of being captured, he returns safely on the 15th to the main army before Richmond. This bold reconnoissance of the enemy convinces General McClellan that there is danger of having his communications with the York River broken, and that it may be necessary to rely upon the James.

Gen. "Stonewall" Jackson, on the 26th, in execution of the plan adopted by a council of war, moves against the right flank of McClellan, which rests on the north, or left bank of the Chickahominy. This movement leads to a battle at Mechanicsville, a village ten miles north of Richmond. The Union forces there consist of General McCall's Pennsylvania Reserves, aided by the commands of Generals Morrell and Sykes, amounting to 13,000 men. To these are added, while the battle rages, Duryea's Zouaves and some other troops, amounting to two or three thousand men The Unionists are well posted and fortified, and with well-directed artillery they repel the fierce assaults of the superior force of Confederates,—now commanded by Gen. Robert E. Lee,—during several hours, until nightfall. Then the latter draw off. The Union loss is eighty killed, and 150 wounded; while the Con-

federates, under Lee, Longstreet and the two Hills, from their more exposed condition, lose a thousand or more men.

General McClellan believes that the force of the enemy in and around Richmond is 200,000 men, while his own is only 95,000. He is doubtless mistaken in this supposition, but acting on it, he decides upon the dangerous experiment of changing his base from the York River to the James. Upon the latter he can be supported by the gunboats; and, if necessary, he can take refuge in the transports which had been sent up that stream under their protection. The Confederate commander fails, at first, to comprehend the purpose of General McClellan; so that while the latter is having his forces moved south, across the Chickahominy, Lee is sending forward reenforcements to the north side of that river. The result is, that the main bodies of the two armies are separated by a stream which has been rendered impassable by the destruction of the bridges behind the retreating Unionists. Mechanicsville is situated upon the northern bank of the Chickahominy; and when General McCall, the commander of the Union forces at that point withdrew and moved down the stream, the Confederates, mistaking the purpose, cross over, some to follow him, and others to move northward to the Pamunky. They cross, expecting to find vast stores of provisions, and intending to destroy the connections of the Unionists by the way of York River. These counter movements of the opposing forces take place on the 27th. But it is not without a desperate battle at Gaines' Mills, in which victory alternates from side to side. Although neither claim to have gained the day, the Unionists, under General Foster, make good their retreat across the river, and destroy the bridges behind them. The Confederates are thus held in check by the necessity of rebuilding the bridges; while the Unionists gain a day in their march through White Oak Swamp to the James River.

The Confederates now flatter themselves that the whole of McClellan's army will be captured. It is not until they have advanced to the White House, where they are disappointed in finding the place abandoned and all army supplies removed or destroyed, that they realize the truth that McClellan's whole army is on the south side of the Chickahominy, falling back in good order to the James River. The bridges must be rebuilt before they can pursue, and this consumes a day. The Union forces under Sumner and Franklin which had been left at Fair Oaks, evacuate their works at that place on the morning of the 29th, and move back a short distance on the Williamsburg road, to the railroad at Savage Station. In the afternoon they are attacked with great fury. The enemy are repelled by the steady fire of the artillery, and the firm line of Hooker's division. During the night Sumner and Heintzelman, covering the rear, continue their march to the other side of White Oak Swamp. At this point, on the following day, a severe battle is fought, in which the Confederates are defeated.

On the afternoon and evening of the next day, — July 1st, — the battle of Malvern Hill is fought. The Union forces are under the immediate command of Gen. Fitz John Porter. This is one of the most desperate conflicts of the war. The Confederates are repulsed and driven back with fearful loss; and at one time it seems as though the great purpose of the campaign would be realized in the capture of Richmond. But as McClellan anticipates that the Confederates will soon be heavily re-enforced, it is not his plan to pursue them. Instead, he falls back to Harrison's Landing on the James River, and there forms an entrenched camp, where he remains until his army moves back again to the defense of Washington. The contest at Malvern Hill closed the celebrated "Seven Days' Battles," in which the Union troops lost 15,849 men, and the Confederates 19,849. Shortly after his Peninsular Campaign, General McClellan was removed from the army.

The failure to take Richmond by the way of the peninsula induced General Halleck, who became, in July, commander-in-chief, to withdraw the Army of the Potomac from that position, and to place it at Acquia Creek and Fredericksburg. The correspondence between Generals Halleck and McClellan shows that the latter thought it impracticable to resume the attack on Richmond without a re-enforcement of 35,000 men; while the former held it to be impossible to send such a force without exposing Washington and Maryland to imminent danger.

In the meantime, as has been stated, a new army is formed of the forces under Fremont, Banks, and McDowell. It is called the Army of Virginia. General John Pope is placed in command of it. He arouses great expectations. The Confederates, finding McClellan leaving the peninsula, form the bold design of marching into Northern territory. They propose to capture Washington and Baltimore. Their plans contemplate ulterior conquests, which would lead to the acknowledgment of Southern independence. The first collision of the hostile forces in this northern advance movement is at Cedar Mountain, Mitchell's station, on the Orange and Alexandria Railroad, about seventy miles southwest of Alexandria. The Confederates under Jackson are the assailants. After driving the Union forces for a mile or more, the former are repulsed and held at bay, until the latter, under Banks, are re-enforced. The Confederates then draw off, and are pursued as far as the Rapidan, over which stream they retreat safely. The Unionists lose 1,500 in killed, wounded and missing. The Confederate loss is considerable; but it is placed much below the loss of the Unionists.

A few days after this battle a detachment of Confederate cavalry is captured, bearing an important letter from General Lee. It explains his purpose to make an attack on General Pope, before the Army of the Potomac under General McClellan could unite with him. This scheme of the enemy, which might have been anticipated, causes Pope to fall back and avoid a battle as long as possible. But before he reaches Manassas, where the

government has provided army stores valued at a million, the Confederates, under Ewell, slip in and seize them; thus furnishing themselves with ample supplies,— more than they can consume. These stores equip them for the Maryland raid, or campaign, and they yet destroy vast quantities which they cannot use.

On the 30th, a great battle is fought. It is known as the Second Bull Run battle, in which the losses on each side are heavy. The Unionists are defeated. They are driven across Bull Run. Some further fighting occurs on the 31st of August and the 1st of September, the result of which is, that General Pope is forced to take refuge in the fortifications around Washington, with a loss of fifteen to twenty thousand men. This was a humiliating conclusion of a campaign which was opened six weeks before, with the boastful manifesto that General Pope was accustomed to see the backs of his enemies.— "It is not for him that putteth on his armor to boast, as for him that taketh it off."

The Confederates immediately march into Maryland. They threaten Washington. They move up the Potomac. They cross that river at Noland's Ford, near Point of Rocks. They continue their march to Frederick.

The Administration regret having placed Pope in command. Their reliance for the defense of Washington fails now, in the presence of Lee's advancing columns. They acknowledge their error. They restore McClellan. That patriotic officer knows no humiliation, where his country's safety is at stake. He promptly rallies the defeated and dispirited Army of Virginia, and, with the aid of some new recruits and his veterans of the Army of the Potomac, which are brought up from the peninsula, he immediately takes up the line of march in pursuit of Lee. The first serious encounter is at Sharpsburg, on September 15. In this battle the fighting is stubborn on both sides. It results in victory for the Union forces, although accompanied by the loss of 443 killed, and 1,806 wounded. The Confederate loss in killed and wounded was probably as large, besides 1,500 prisoners.

The great battle of Antietam is now fought. It is named from the small stream of that name, a tributary of the Potomac. Upon its banks fighting begins on September the 17th. Both sides claim to be the victors, but the substantial fact remains that the Confederates retreat across the Potomac. They thus abandon their grand expedition into Maryland and Pennsylvania, which was to embrace the capture of Washington and Baltimore. General McClellan states that during his brief campaign in Maryland, he captured "thirteen guns, seven caissons, nine limbers, two field-forges, two caisson-bodies, thirty-nine colors, and one signal-flag," and says: "We have not lost a single gun or color." These statements can leave no doubt that the Unionists won the day. McClellan admits that in the two battles he lost a total of 14,794, in killed, wounded, and missing. He states that 3,000 of the enemy were

buried upon the ground by the Union forces, besides an estimated number of 500 buried by the enemy before retiring. He supposes the wounded were in the usual proportion to the killed. He says that 5,000 prisoners were taken; and concludes that the Confederate losses, including stragglers, must have amounted to at least thirty thousand. The Confederates place their loss much lower. The foregoing statements refer entirely to the results of the fighting on the north side of the Potomac; but in estimating the achievements of the opposing forces, there is to be reckoned the capture of Harper's Ferry by the Confederates, with 11,583 prisoners, forty-seven guns, and other munitions of war. This disgraceful surrender was the subject of investigation by a court of inquiry. The court decided that it was caused by imbecility on the part of the officers in charge — General Miles, who was mortally wounded, and Colonel Ford, of the Ohio volunteers. The latter was dismissed the service.

It is hard to insert in this chapter as cold a fact as that in the past sentence. It is hard to say of genial Colonel "Tom Ford," of Ohio, that he disgraced himself in this surrender. It would not be so remorselessly said, if the reputation of one of Ohio's most gallant officers of the war had not been most unjustly involved in that affair. The writer refers to Col. William H. Trimble. He was the son of Allen Trimble, an early governor of Ohio, and well known to Kentucky. The thoughts of Colonel Trimble were those of patriotic duty. Upon a lofty plane, supported by a principle only not religious, and by a courage that knew no fear,— he was, to some extent, involved in the surrender, but by no fault of his. The wheat is often among the chaff.

Colonel Ford was a man of great physique. He was a rare Republican speaker upon that western tribune — the stump. He never failed to tell an anecdote well, whether it had the logical application or not. The writer differed with his Know-Nothing views, and suffered from his trenchant Republican tendencies and talks, but he could not resist his abounding *bonhomie*, which never failed to ingratiate an average audience. Colonel Ford has been known to speak for hours and hours, standing — on account of his corns — in his stocking feet. He could face any audience. Yet the finest scenery vouchsafed to Americans, and the most thoroughly strategic point in our four years' war, failed to inspire him with the elements of soldiery and manhood.

The Confederates abandon Harper's Ferry immediately after Antietam. This is another proof that they were defeated and driven back; but the capture of the place, with so large a number of prisoners, makes a large offset against their losses.

The expulsion of the Confederates from west Tennessee and north Mississippi in the last days of May, after the battle of Shiloh and the capture of Corinth, has been recounted. Their next rallying point was at Chattanooga, under Gen. Braxton Bragg, with an army of 45,000 men, divided into three

corps. These were commanded, respectively, by Major-Generals Wm. J. Hardee, Leonidas Polk, and E. Kirby Smith. General Smith, with 15,000 men, struck off from Knoxville into eastern Kentucky, and thence down into the heart of the state. At Richmond, the county-seat of Madison County, he encountered an inferior force of Unionists, who offered battle; but the latter were defeated, after a hard fight, lasting from the early morning until night. The Confederate general marched thence to Lexington, a wealthy town of ten or twelve thousand inhabitants in the "blue grass" region. No opposition was or could be made to his entrance. He issued a proclamation declaring that he came not as an enemy, but as a friend and liberator of the state from the despotic rule of the North; that discipline would be maintained in his army; and that the food necessary to maintain it would be paid for. On the 6th of September, he takes possession of Frankfort, the capital of the state. The governor and legislature, in anticipation of his coming, remove, with the public archives, to Louisville. The banks of Richmond, Lexington, and Frankfort also send their treasures, amounting to a million of dollars, to the northern borders of the state. The governor, James F. Robinson, issues a proclamation calling on the people to rally and expel the invader, for the honor and integrity of the government. The people of Cincinnati and the river counties of Ohio are greatly excited, and in response to the call of Governor Todd, defensive measures are adopted without delay. Gen. Lew. Wallace is placed in command of Cincinnati, Covington, and Newport, and martial law is proclaimed.

The writer remembers well two incidents of this time: First, — he gave to Governor Crittenden an urgent invitation — if driven from his home at Frankfort — to come to the writer's house and home in Columbus, Ohio. The governor's response was characteristic for its courtesy and pluck: "Never can I leave Old Kentucky, sir — never, when she is in trouble." The other incident is connected with the excitement in middle and southwestern Ohio. The author was then a candidate for Congress; and being a Democrat was a "suspect." Thousands of citizens rally to defend the Ohio borders and Cincinnati. It is called the Squirrel Campaign. Shot-guns are the weapons. Old powder-horns that belonged to the time of Simon Kenton and Jonathan Zane are brought from their hiding-places. The opposing Republican candidate for Congress is Judge Samuel Shellabarger, who volunteers while the writer remains at home doing much recruiting for the army,— and for Congress. The author aids in raising a regiment for Col. Wm. T. McMillern, ex-postmaster at New Orleans. The regiment is raw. It is surrounded before it has gone far into Kentucky and sent home on parole by order of Gen. E. Kirby Smith, "to vote for the Democratic congressman." This order did the writer some damage; but as Judge Shellabarger was not reaping many laurels on his squirrel adventure, the damage was compensated by the absence of that gifted competitor. Affright over

the escapade of the Ohio recruits into the "blue grass" country soon subsided, and the Democrat was elected on the Lincoln platform of the Union.

Meanwhile, General Bragg, with the residue of the army under his command, moves forward to the support of Gen. E. Kirby Smith. On the 5th of September he enters Kentucky. He strikes the Louisville and Nashville Railroad at Bowling Green. Munfordville, a point on the road some twenty-five or thirty miles further north, is held by 4,500 Union troops. But after a weak defense, in which the loss of life is inconsiderable, the place is surrendered, and the garrison made prisoners. The railroad bridge over Green River is burned, by which the connection between Louisville and Nashville is broken. Apart from the desire to gain Kentucky to the Southern cause, another main object of the expedition of Bragg was to obtain supplies of provisions. The resources of the South in meat and grain were nearly exhausted, while Kentucky abounded in these necessaries. Bragg was closely followed by General Buell with a superior force, and was driven back out of the state, by way of Cumberland Gap. The Confederate general adroitly avoided a battle. He succeeded in carrying off some four thousand wagon-loads of provisions, and thousands of fat cattle.

During these operations in Kentucky, the Confederates under General Price having rallied their scattered forces, threatened active hostilities against General Grant, who now succeeded to the chief command on the Mississippi, with General Rosecrans second in command. A severe engagement occurred at Iuka, on the 19th of September, in the State of Mississippi, in which the Confederates were defeated by the Union forces under the immediate command of Rosecrans. The losses were about equal. The Confederates lost three generals killed, namely, Lytle, Berry, and Whitfield. It was expected by the Confederate commander, that General Van Dorn would be able to reach the field of operations before the impending battle should come on. But in this he was mistaken. That officer was not able to reach the scene of hostilities until some days later, when a combined attack upon the strongly fortified works at Corinth was agreed on. General Rosecrans had added greatly to its strength. He was prepared for the assault, which was expected to be made by the forty thousand Confederates under Van Dorn and Price. A desperate battle was fought on the 3d and 4th of October. It resulted in the defeat and rout of the assailants, with great loss. General Rosecrans states that his troops buried 1,423 of the enemy's dead, — left on the field, that he captured 2,268 prisoners, and that the Confederate wounded must have exceeded 5,000. Among the prisoners were 137 field officers, captains, and subalterns, representing sixty-nine regiments. There were captured, also, 3,300 stands of arms, thirteen batteries, fourteen stands of colors, and other trophies.

The prolonged battle of Stone River, near Murfreesborough, was fought by the Union forces under General Rosecrans, and the Confederates under Gen-

eral Bragg, on the last day of the year 1862 and the first days of 1863. General Rosecrans had been appointed to the command of the Army of the Ohio in October, and ordered to Cincinnati to take the command. Having gathered up his scattered forces, and added to them the raw levies which were raised during the autumn, he takes up the line of march through Kentucky, driving the Confederates before him. He encounters no considerable force of the enemy until he arrives in the vicinity of Nashville. At this point he is confronted by the large force under the command of General Bragg. This able officer gradually draws back until he reaches Stone River, near Murfreesborough, thirty miles southeast of Nashville. During the first day's fight, on December 31st, the Union forces are badly beaten and driven before the victorious enemy; but, as happened at Shiloh and on other battle-fields during the war, the contest is renewed on the following day, and finally, after three days' hard fighting, results in victory for the Union forces. The Union loss was 8,485 in killed and wounded, and 3,600 missing. The Confederates must have lost as many, besides being driven from the field and pursued by the victors.

After the battle of Antietam, the Army of the Potomac, under General McClellan, remained stationary for more than a month. In the meantime the Confederate General Stuart crossed the Potomac and invaded Pennsylvania, with a force of 2,500 cavalry. They entered Chambersburg, burnt the government store-houses and machine-shops, and returned safely into Virginia with 1,000 captured horses. Great complaint was made against General McClellan by the public, and he was censured for his inactivity, by the Administration. The general-in-chief, by order of the President, on the 6th of October addressed a note to him, directing him to cross the Potomac and give battle to the enemy, who was then posted in the Shenandoah Valley and along the Blue Ridge. But for some cause no movement was made until October 26th; and on the 7th of November, General McClellan was superseded by General Burnside. The order for his removal reached him at Rectortown, on the Manassas Gap Railroad. It was borne to him by Gen. Catharinus P. Buckingham, then assistant Secretary of War. It was the most disheartening order of the war. It was a great surprise to McClellan and the army. It was the consummation of the old plot. It was doubtless a great mistake, prompted as much by popular clamor, as by a conviction of its propriety on the part of the Administration.

General McClellan, when superseded, was moving in the direction of Gordonsville. He intended to cut off the Confederate army from its connections with Richmond. General Burnside, however, turned in the direction of Fredericksburg. There he was confronted by the Confederate army, which was strongly entrenched south of the city upon elevated ground. Here a desperate and bloody battle was fought on the 13th and 14th days of December. It resulted in the defeat of the Union forces with heavy loss.

General Burnside states his loss at 12,321, in killed, wounded, and missing. On the night of the 14th he retreated to the north side of the river without further molestation. The Confederate loss was inconsiderable. They fought behind their entrenchments, while the Unionists were the assailants.

In February, 1862, Commodore Farragut led a naval expedition for the capture of New Orleans. Commodore David D. Porter was second in command. Gen. B. F. Butler, with about fifteen thousand men, accompanied the naval force. The Confederates had possession of the old United States forts, Jackson on the right, or west bank of the Mississippi, and St. Philip on the left. They had armed them with 126 guns. These fortifications are situate about seventy-five miles below New Orleans, and twenty-five miles from the mouth of the river. Farragut's fleet consisted of seven steam sloops of nine to twenty-six guns, ten gunboats of four to twelve guns, and a sailing sloop of seventeen guns. His mortar fleet consisted of twenty schooners, each mounting one large mortar and two small guns. He had also five other steamers, mounting twenty-eight guns. It was not until April 8th, that all the vessels were got over the bar. The bombardment commenced on the 18th. It was continued almost incessantly until the 24th. After a terrific cannonade, the fleet passed above the forts, leaving them in a crippled condition. Farragut proceeded up the river to New Orleans. He demanded of the mayor the surrender of the city. After some hesitation the demand was complied with, and General Butler, with his military force, took possession and established martial law. Forts St. Philip and Jackson surrendered to Porter on the 27th, after some further resistance. During the conflict with the forts the Confederate iron-clad fleet came down the river to their assistance. But to the last one these formidable floating batteries were captured or destroyed. The passage of these forts, supported by the Confederate fleet, is regarded as one of the most heroic achievements of the war. After taking possession of New Orleans and adjacent parts of Louisiana, Commodore Farragut penetrated up the Mississippi with his gunboats, and having passed the strong fortifications at Vicksburg, aided the military in an unsuccessful attempt upon that strongly fortified place.

CHAPTER X.

THE END OF THE WAR.

VICKSBURG CAMPAIGN OF 1863 — OTHER MOVEMENTS OF GRANT — BANKS AT PORT HUDSON — BURNSIDE SENT WEST — HE ARRESTS VALLANDIGHAM — HIS WONDERFUL STRATEGY IN CAPTURING THE DEMOCRATIC ORATOR —THE TRIAL —THE AUTHOR'S EVIDENCE — HOOKER DEFEATED IN VIRGINIA — LOSS OF STONEWALL JACKSON — POPULAR CLAMOR FOR A MOVEMENT — VINDICTIVENESS OF THE RADICALS AND STANTON — MEADE IN COMMAND — LEE MOVES NORTH — A BOLD DESIGN ON THE CAPITAL AND NORTHERN CITIES—GETTYSBURG A WATERLOO — OTHER BATTLES IN TENNESSEE — ATLANTA FALLS — SHERMAN MARCHING THROUGH GEORGIA — THE CAMPAIGN OF 1864-'65 — THE TENDENCY TO CONCENTRATE ALL FORCE FOR THE GRAND DENOUEMENT — RICHMOND FALLS — APPOMATTOX — RESOURCES AND COST OF THE WAR — THEIR IMMENSITY AND THE COMPENSATIONS.

ON the last day of the year 1862, General Sherman was removed from the command of the Army of the Tennessee, and General McClernand, of Illinois, appointed to take his place.

The campaign of 1863, against the Confederate army in Mississippi, was planned and entered upon by General Grant in November, 1862. He proposed to send Gen. W. T. Sherman and General McClernand down the Mississippi River with a strong force, to be aided by a fleet of gunboats, to assail the fortified city of Vicksburg in front and rear, while he, with the body of his army, was to operate in the state north and east of Vicksburg. It is probable that this plan would have been attended with immediate success, but for the enterprise of General Van Dorn. That Confederate leader came up behind Grant as he was advancing south, and on December 20th, captured and destroyed his vast stores of arms, provisions, clothing, and ammunition at Holly Springs, — a place situated on the Mississippi Central Railroad, about forty miles southeast of Memphis. The stores destroyed here were valued at between four and five millions of dollars. Their destruction had the effect of arresting the operations against Vicksburg. The commander at Holly Springs was Colonel Murphy. Grant, in a general order, denounced the surrender as disgraceful. This and other dashes of the enemy upon his rear, caused him to fall back

upon Holly Springs. He had already reached Oxford, thirty miles further south. The delay occasioned by Van Dorn's success gave General Pemberton time to march into Vicksburg with a large force of Confederates, to meet and thwart the operations of Sherman. The latter, in conjunction with Commodore Porter, commenced operations against the city, in the expectation that General Grant would co-operate; but after some severe fighting, the enterprise had to be abandoned. The loss of the Unionists in this attempt upon Vicksburg was 191 killed, 982 wounded, and 756 missing.

The capture of Arkansas Post was made on the 11th of January. It is situated a few miles up the river from its mouth, and was defended by a large Confederate force. The movement was planned by General Sherman and Commodore Porter before General McClernand took command of the army. To those officers belongs the honor of its execution. The loss of the Unionists was 600 in killed and wounded. The Confederates lost only sixty-five in killed, and eighty-three wounded; but their whole force of 7,000 men and officers was surrendered, with 8,000 stands of arms, twenty cannon, and a large amount of stores.

General Grant, whose headquarters were at Memphis, now began the campaign which resulted in the siege and capture of Vicksburg. This great event of the war — the capitulation of Pemberton and his army — was concluded on the 4th of July, 1863. Its effect was to open the Mississippi to northern commerce, to divide the Confederacy into two parts, and, taken in connection with the Gettysburg victory of the same day, greatly to revive the hopes of Northern people that the restoration of the Union was at hand. The result of the campaign, as stated by General Grant, was the defeat of the enemy in five battles outside of Vicksburg, the occupation of Jackson, the capital of the State of Mississippi, and the capture of Vicksburg, its garrison and munitions of war, with 37,000 prisoners, including fifteen general officers, — while at least ten thousand of the enemy were killed and wounded, and thousands straggled off, never to be collected again. Besides railroad cars, locomotives, steamboats, and cotton, the arms and munitions of war surrendered were sufficient for an army of sixty thousand men. The Union losses in the series of battles around and at Vicksburg were 1,243 killed, 7,095 wounded, and 537 missing; total, 8,875. President Lincoln, in a brief letter to General Grant, made his "grateful acknowledgment for the almost inestimable service" he had done the country. He admitted that in the progress of the campaign, where he feared a mistake had been made in the course pursued, the general was right, and he was wrong. The achievements in this campaign permanently established the supremacy of General Grant in military affairs. They promoted him to the chief command, and afterward added civic honor to his laurels. The fall of Jackson, the capital of the State of Mississippi, followed that of Vicksburg within two weeks. It

involved a loss by the Confederates of an immense quantity of military stores.

In March, General Banks, with an army of 15,000 men, and accompanied by a naval force under Admiral Farragut, laid siege to Port Hudson. This was a strongly fortified position on the Mississippi, about twenty-five miles above Baton Rouge. The investment was, however, rather formal, than substantial. After an unsuccessful bombardment by the fleet, the enterprise was suspended. The Union troops crossed the river, into the Teche country, in pursuit of the enemy. In this expedition a great quantity of Confederate munitions of war was captured and destroyed without much resistance.

The siege of Port Hudson was again commenced by Banks on May 21st. Some progress had been made in pushing the approaches, when, on the 7th of July, the Confederate commander, Gen. Frank Gardner, heard through some Union soldiers, that Vicksburg had fallen. He thereupon addressed a note to General Banks, stating that if it were true that Vicksburg had surrendered, his position at Port Hudson would be no longer tenable, and that he would agree to terms of surrender. On being assured by a dispatch from General Grant that the information was correct, he promptly agreed to surrender. The terms were agreed on by a commission of officers, on July 8th. The surrender embraced 6,233 prisoners, fifty-one pieces of artillery, and a large supply of ammunition and small arms.

At the beginning of the year the Union cause was not in a prosperous condition in the East. After the battle of Fredericksburg, the Army of the Potomac, under General Burnside, remained comparatively quiet for some weeks. Then a movement was made to cross the Rappahannock above Fredericksburg in mid-winter, which failed, owing to the impassable condition of the roads. The soldiers of the Army of the Potomac ever after humorously called this movement — "Burnside's Mud March." After this a serious quarrel was developed between Burnside and his commanders. He recommended the dismissal of Generals Hooker, Newton, and Brooks; and that Generals Franklin, W. F. Smith, Sturgis, and others be relieved from duty. If the President refused to sanction these recommendations, General Burnside tendered his resignation. The President declined to sanction the dismissal and removal of the officers named, and also declined to accept the resignation. Burnside was soon after transferred to the West, and placed in command of the Department of the Ohio. He was succeeded in the Army of the Potomac by Gen. Joseph Hooker, whose dismissal from the army he had recommended.

General Burnside, in the beginning of May, 1863, was stationed at Cincinnati. Ohio was not in flagrant war, in any sense, yet this defeated general began belligerent operations at once. He sent a portion of his staff in citizen's dress to Mount Vernon, in that state, to report Mr. Vallandigham's

speech! As the testimony turned out, and as the author of this book testified on oath, fortified by Vallandigham's statement, the words alleged against the latter were spoken by the writer. The arrest of Vallandigham followed on the 5th of May, 1863. It was not a brave exploit, though eminently strategic. It was described at that time by the author, with Cæsar's brevity, thus: "Night — special train — house guarded near V.'s residence — depot under guard — quick, cautious movement — doors broken — bedroom entered — prisoner captured — placed in cars and gone — all in thirty minutes!" The mind that planned this dash on the bedroom of a Democrat had just felt the stings of defeat at Fredericksburg!

The author had been summoned by telegraph to Cincinnati, to appear at the trial forthwith. It was a rude and impudent missive. He was commanded to leave on the night train. He went through Dayton, the residence of the arrested statesman. The excitement was intense. So it was at Hamilton. The depot had been burned. Arriving at Cincinnati at daylight he had a conference with General Burnside. There was little talk about the arrested man, as the General said that word might be sent to Mrs. Vallandigham that her husband would soon be released. But there was much talk about the late Virginia battles; and, to do General Burnside justice, he yearned to go back, as he said, to take a subordinate command under General McClellan, on whom he passed unmeasured encomiums. He asked the writer to present his wishes to President Lincoln.

In the latter part of April, General Hooker commenced operations against the enemy, who was entrenched on the opposite side of the Rappahannock. In the battles of the Wilderness and Chancellorsville, like that at Fredericksburg in the winter, while the commander of the Union army had perhaps the advantage in the number of men, the Confederates had the advantage of acting on the defensive. They fought their assailants on their own chosen ground. It is true, also, that General Hooker brought only a part, as it is said less than half, of his force into action. He crossed the Rappahannock about twelve miles above Fredericksburg with the main body of the army, and sent General Sedgwick with the Sixth Corps across, a few miles below that town, to take and hold the heights where Burnside had failed. The intention was to hold these heights while Hooker would push toward them in rear of Fredericksburg, and thus force Lee out of his works, or capture him. These movements were made with great celerity. Sedgwick took the heights, and Hooker simultaneously reached the strong position at Chancellorsville. Here, while Hooker was about to push on, Sedgwick, instead of remaining in the captured works, finding, apparently, a small force in his front, marched out to join the advancing columns of Hooker. At this moment, Lee threw a crushing force against Sedgwick and drove him back to the river; then by a rapid march he advanced with his whole force on Hooker. Jackson ("Stonewall") struck

the first blow. It fell on Schurz's division of the Eleventh (Howard's) Corps. That division was in the advance. Instead of being on the *qui vive*, the troops were in bivouac with arms stacked. The result was that they were completely routed; and two divisions sent out under Sickles, leading the movement in rear of Fredericksburg toward Sedgwick, were for a while cut off from the main army. The plan thus miscarried, and Hooker was put on the defensive at Chancellorsville. He entrenched with both flanks resting on the river in his rear, in the shape of a horseshoe. This position was impregnable, and its defenders were in high spirits. It was repeatedly assaulted by the Confederates with great loss. But the movement having miscarried, Hooker, after holding the position a few days, withdrew his army to its old encampments in front of Fredericksburg. His loss in killed is stated at 1,512, in wounded, at 9,518, and 2,500 missing; total, 13,530. General Hooker claimed that he had inflicted heavier blows than he received; that he had taken from the enemy 5,000 prisoners, fifteen colors, seven pieces of artillery, destroyed depots filled with vast amounts of stores, destroyed his communications, and placed *hors de combat* eighteen thousand of the enemy's chosen troops. This statement may be an exaggeration, and yet the Confederates in every great battle, even when they were victorious, had relative losses, which tended to their exhaustion. The Union commanders could afford to lose. They had unlimited resources. A great government and people were behind them. The Confederates were relatively small in resources. As the result of no one of their victories did they gain ground that they could hold longer than a few days or weeks; whereas,—as this brief narrative will show as conclusively as a more elaborate history,—they were losing ground from the beginning to the close of the struggle.

Among the greatest losses sustained by the Confederates in these battles near Fredericksburg, was that of General "Stonewall" Jackson. It is said that he was wounded on the 2d of May by the firing from a regiment of his own troops; and that they mistook him and his staff for Union cavalry. His wounds in the shoulder and hands were not mortal in themselves, but they predisposed his system to pneumonia, of which he died, at Bowling Green, on May 10th. General Lee wrote him a brief yet beautiful letter on the 4th, in which he said: "Could I have directed events, I should have chosen, for the good of the country, to have been disabled in your stead." At the very moment General Jackson was shot, a scouting party of five soldiers, of the Fifth regiment of the New-York Excelsior Brigade, were on the Orange plank road, outside the picket line. It was a clear moonlight night. They saw and heard Jackson's cavalcade approaching. They were on the lookout to ascertain whether the troops massing in front (Jackson's corps) was Sickles, with his two divisions which had been cut off, as stated, by the break of the Eleventh Corps. If Sickles should come in by this way, he would be taken for the enemy, and be fired upon by the Union line of battle, unless his identity

should be ascertained. These scouts have just heard the commands given to several Confederate regiments by name. By the movements ordered they know that the latter are being massed in column. At this moment the scouts hear and see the horsemen approaching. They immediately turn to give information that it is the enemy who is in front. Thereupon a few shots are fired by the pickets of the Second New Jersey brigade, on the left of the plank road and to the rear of the scouts. At the same moment a volley is fired by the Confederate pickets from the opposite direction. Some of the bullets come whizzing over the heads of the scouting party. One of the latter, who is at the author's elbow as he pens this incident, says that the firing on both sides was so nearly simultaneous that it was impossible to tell which side fired first. Therefore, it is as reasonable to say that General Jackson got a soldier's mortal wound from the enemy's line of battle, as to attribute his death to an accident of his own men, who should have seen him and his staff in that clear moonlight, passing out to reconnoiter the front. The moment after this firing takes place the Union pickets fall back precipitately, and a regular line of battle fire is opened on both sides. Before the little party went out on the hazardous duty of reconnoitering approaching troops, in front of regiments in the order of battle, word was passed along the line not to fire until they reported back, or there was reason to believe they were captured. This precaution has been disregarded under the galling fire pouring in from the front. The scouting party are thus between two fires. Which way would they flee? They can lie down in the ditch beside the road and be comparatively safe. But delay in giving word that the enemy is massing for an assault may bring great disaster to the army. A dash must be made through the leaden storm. There is one black space in the blazing line behind these intrepid soldiers. Their own regiment, true to its promise, withholds its fire. They make the dash through the open timber for that dark line. They gain it unscathed! They give their important information. Hooker masses his artillery on the ridge behind this line. At two o'clock in the morning, and again at daylight, the Confederates advance on the charge. The artillery sweeps their ranks with terrible slaughter. Jackson's famous corps is repulsed and almost decimated. Hooker names these scouts for decorations. The writer's friend wears on his breast the "Medal of Honor" for that night's work.

The experience of President Lincoln in the direction of military affairs in Virginia had not justified him in departing from his maxim, that "a man should not swap horses when crossing a stream," and when the current is sweeping him away. He superseded McClellan in the summer of 1862, because he had failed to capture Richmond with an inferior force. He soon found out that he had made a bad exchange by substituting Pope in the chief command. He restored McClellan just in time to save the North from invasion and to drive back the invader. But, growing impatient of delay,

he again changed McClellan for a soldier untried in great commands. It is but just to the late amiable Senator from Rhode Island — General Burnside — to say that he reluctantly accepted the chief command. He admitted his incapacity to command so great an army, and preferred to serve under McClellan. The disaster at Fredericksburg justified his modest estimate of his own abilities. It induced the President to exchange again, but with no better success. The unsuccessful results of the week's fighting in the Wilderness and around Chancellorsville, convinced the President that "Fighting Joe Hooker" had not the military genius which was to save the country. What now is the alternative? Another exchange. It is but justice to President Lincoln to say, however, that this chronic habit of changing commanders with every change in the seasons, or the moon, was not the result of weakness of judgment or whim on his part. It arose from an excessive deference to popular clamor, expressed by the newspapers and politicians. His War Secretary, Edwin M. Stanton, was a fierce and vindictive man. He had his dislikes and jealousies of every man of real talent and military merit. He lost no opportunity for making them feel his power. This man, though a secession sympathizer at the beginning of the war,—as Judge Black proved, and as the author personally confirms,— had acquired, by dint of vindictive hatred of his old friends and associates, and by a degree of vigor unexampled in the performance of official duties, a wonderful hold on the confidence of Northern men, — and especially upon those of extreme views regarding the South. He especially disliked McClellan, Grant, and Sherman. All great events are more or less affected by such private hatreds or partialities.

Early in June, General Lee began to prepare for an important movement. Before the 10th of the month his forces were in motion in the direction of the valley of Virginia. On the 14th, having passed through Snicker's Gap, they invested Winchester, which was held by General Milroy with 7,000 men. Some resistance was made, when that officer called a council of war, which decided to abandon the place and retreat to Harper's Ferry. The attempt to execute this movement was discovered by the enemy. Most of the retreating Unionists were captured, with their arms and baggage. Martinsburg, a few miles farther north, also fell into the hands of the enemy; after which they were free to send raids into Maryland and Pennsylvania, and help themselves to clothing, horses, and whatever they wanted, at their own prices in Confederate money. Otherwise, they behaved with an exemplary prudence that might well have been imitated in many parts of the belligerent land. Gen. George G. Meade, on June 28th, superseded General Hooker, who, totally unexpectant of a change, was pushing on his columns through Maryland to give battle to Lee in the vicinity of Gettysburg.

The movement, above recorded, led to the march of the Army of the Potomac in pursuit of Lee. It eventuated in the great battle of Gettysburg.

This protracted struggle, commencing on the first day of July and ending on the third, was one of the most sanguinary of the war. It resulted in the defeat of the Confederates, with heavy losses on both sides. It was a defeat; because it was a failure of the bold and comprehensive purposes of the Confederate authorities. They designed the capture of Washington, Baltimore, and Philadelphia, and other conquests farther north. In place of these results, which might have been fatal to the cause of the Union, General Lee, with his splendid army, was fearfully crippled. He was driven back to Virginia. General Meade states his own losses to have been 2,834 killed, 13,709 wounded, and 6,643 missing; total 23,186. On the 31st of July, General Lee said in his official report, that he was not then able to give a correct statement of his casualties, "which were severe, including many brave men and an unusual proportion of distinguished and valuable officers."

General Meade, in his report dated October 1st, summed up the results of this campaign, in the defeat of the enemy, their compulsory evacuation of Pennsylvania and Maryland, their withdrawal from the upper valley of the Shenandoah, the capture of many guns, forty-one standards, 13,631 prisoners, and 34,987 small arms. He fails to say how many of the enemy were killed and wounded. The reports of the Sanitary Commission show that 7,262 of the severely wounded were left on the field, to be cared for by the Union forces. All who could bear transportation — probably a greater number — were carried off in the retreat. It is said, also, that the Unionists buried 4,500 of the Confederate dead, and that the Confederates themselves spent the 4th in the same pious work. At this rate, their losses in killed, wounded, and prisoners must have amounted to nearly forty thousand. It has been said that a large militia force of Pennsylvania and New-York was engaged in this battle. This is not true. To the Army of the Potomac alone belongs this splendid victory. Hooker had the previous winter given to it an unsurpassed organization and unlimited confidence; and his successor, General Meade, had no superior in generalship.

During the month of September there was, in the West, a concentration of the forces of both belligerents in the vicinity of Chattanooga. It became evident that a great battle was approaching. The Union forces under the command of General Rosecrans held that town. The enemy had evacuated it and retired to the mountain fastnesses. The main body of the Union army came by way of the southwest, along the valleys of Lookout Mountain, and the Chickamauga, and other tributaries of the Tennessee River. The battle of Chickamauga began on the 19th of September. It was renewed on the 20th. It resulted in the defeat of the Union forces, but not without inflicting losses on the victors equal to those suffered by the vanquished; while the latter were permitted, on the 21st, to retire from the field without serious interruption. The loss of the Unionists in the two days' battles was 1,644 killed, 9,262 wounded, and 4,945 missing or prisoners, to-

gether with thirty-six cannon, 8,540 small arms, and other war material. General Bragg admitted his losses to have been heavy. They have been stated by Union authorities at 18,000 men.

In October following this defeat of the Union forces, General Grant was appointed to the chief command of the departments of Tennessee, Cumberland, and Ohio, and General Rosecrans was relieved. Gen. W. T. Sherman was placed in command of the Army of the Tennessee, and General Thomas in command of the Army of the Cumberland.

Now comes the grand struggle for the control of the railroads which pass through Chattanooga, and of the Tennessee River on which the town stands, together with the fertile regions to which they give access. This struggle led to another great conflict in the vicinity of that town. It is known as the battle of Chattanooga. In this brief sketch only results can be stated. General Grant had the powerful aid of General Sherman, who came up from the southwest in time, together with Thomas, Hooker, Howard, and other able officers. General Bragg commanded the Confederates. He had charged in his report that General Polk had disobeyed orders at the battle of Chickamauga. This disobedience, as he alleged, had prevented the annihilation of the Union army. In consequence of this grave charge, Polk was relieved from command and arrested. This was in September. Bragg had sent Longstreet to Knoxville to besiege Burnside. His second in command was General Hardee. Grant availed himself of this state of things to attack the Confederate commander. He achieved a complete victory. General Grant says that his losses in these battles around Chattanooga were 757 killed, 4,529 wounded, and 330 missing; total, 5,616. He estimated the loss of the enemy at less than his own, owing to the fact that he was protected by entrenchments, while the Unionists were the assailants. He says, however, that the enemy's losses at Knoxville were many times greater than his own, which would make the aggregates about equal. The Confederates lost, from October 20 to December 1, in deserters and prisoners alone, 6,142, together with forty cannon, 2,336 rounds of artillery ammunition, 6,175 stands of small arms, with much other war material; but their greatest loss was the control of the river and railroads, by which their resources were fatally crippled, and their communications with the West were cut off. General Grant, in an address to the armies of the Cumberland, the Ohio, and the Tennessee, near the close of the year, summed up the results of the campaign by telling them that in a short time they had recovered from the control of the enemy the Tennessee River from Bridgeport, near Chattanooga, to Knoxville; that they had dislodged him from his great stronghold upon Lookout Mountain, driven him from the Chattanooga valley, wrested from his grasp the possession of Missionary Ridge, repelled with heavy loss his repeated assaults upon Knoxville, and compelled him to raise the siege there and to retreat beyond the limits of the state.

By the end of the year, great inroads were made upon the Confederacy. General Grant held the railroads from Chattanooga to Nashville, and from Memphis and Charleston to Tuscumbia and Florence. The Mississippi River was open to the Gulf. The capital of Arkansas was in possession of the government. The Confederates were expelled from Tennessee and Kentucky. General Meade confronted Lee at Culpepper Court House. Winchester, Martinsburg, and Harper's Ferry, together with the sea-ports of the Atlantic and Gulf coasts, from Old Point in Virginia to Texas, were, with two or three exceptions, in possession of the Union forces. At the beginning of the conflict, all the territories controlled by these places, with their lines of communication and war resources, were in the hands of the Confederates. It is one of the wonderful feats of persistent human nature, that the Confederate leaders were able to keep up the struggle on such a gigantic scale as they did, after losing such strategic and pivotal advantages in locality, prestige, and power. True, they could still draw recruits from the lost territory; but their only chance of obtaining supplies of provisions from within the Union lines, was by the capture of baggage-trains and depots. It is discreditable to the vigilance of the Union commanders, that the Confederate foragers were so often successful in such raids. It was a common humorous remark, that the Unionists furnished the elements of war for the Confederates.

Many interesting events of this year, leading up to other great events, or ending in failure, must be passed over. Of the latter description were the combined naval and military operations against Charleston.

Early in the year 1864, General Sherman, advanced into the interior of the State of Mississippi, as far as Meridian. He destroyed in his march the military stores of the Confederates. He broke up the railroads more effectively than had ever been done before. But Gen. W. S. Smith, who was to have formed a junction with him at Meridian, failed to appear. It turned out that he failed to leave Memphis until about the time of Sherman's arrival at Meridian, and that he had met and been defeated by Forrest. In consequence of this mishap, Sherman abandoned the pursuit of the Confederates. The latter were commanded by General Polk, who retreated southeastwardly. Sherman then returned with his force of about thirty thousand men, to Vicksburg.

On the 2d of March, 1864, General Grant was raised to the rank of Lieutenant-General. He was appointed Commander-in-Chief of the Armies of the United States on the 14th. His headquarters were at Washington. The Army of the Potomac, under the immediate command of General Meade, had its headquarters near Culpepper Court House since December, 1863. May 4th, General Grant crossed the Rapidan and advanced upon Lee's lines. At this time there was a concerted movement upon Richmond, —one up the James River, one up the Shenandoah, and Grant's direct one. The object was to prevent a concentration of the Confederate forces,

as had often happened when the main attack had been made at one point only. Being within the curved line of defense, it was not difficult, when a single point was assailed, for the enemy to concentrate his forces there. This advantage was lost when all points were assailed at once.

It is curious to note how contending armies are prone to gravitate to particular points for mortal combat. When duelling was the fashion at the capital, the parties were wont to meet at Bladensburg. During the wars between the Moors and Spaniards, which lasted seven centuries, most of the battles were fought at the point known now as the Bridge of Alcolea. It is at the mountain gateway between the plateaus of the south and north. When the writer was in Spain there was a crucial battle there, almost by chance, between the national forces and Queen Isabella's army, by which Serrano, as victor, became President of the Junta, and General Prim minister of war of a temporary republic. Such localities for battles are not, in fact, fortuitous. They depend, as a New-York colleague, Mr. Abram S. Hewitt, once said of the harbor of New-York, not on man but on nature and God: "It is," said he "the work of that same Almighty power which ordered the arrangements of nature, that water could be made to flow from the great lakes to New-York." The stratifications of geology and the upheavals of the earth by internal fires, make the pivots on which human skill in killing our kind turn, when arranging strategy for war. It is not strange that in our Civil War we had two battles in different years at Bull Run, two in the vicinity of Chattanooga, and three in the vicinity of Fredericksburg. No sooner had General Grant, in May, 1864, made a movement in the direction of the Rapidan, than General Lee began to concentrate his forces on the old battle-fields of Chancellorsville, the Wilderness, and Fredericksburg.

On the 5th of May, 1864, Grant began one of the most remarkable series of great battles recorded in history. For ten days the fighting was almost incessant. The number of killed and wounded on each side amounted to twenty-five or thirty thousand. The Union loss in killed and wounded was 23,800, and in prisoners, 3,900. The loss of the Confederates in killed and wounded is unknown, but it must have been great. They lost 8,000 prisoners, besides stragglers. They held their own each day, but night by night they were gradually drawn, by flanking movements, from the ground occupied by them. Thus they fell back from the Rapidan to Spottsylvania Court House. In their fortified position at this place, the Confederates were taken by surprise on the foggy morning of May 12, by a dashing charge of Mott's division — the remnant of the old Third Corps — of Hancock's corps, and driven from their strong line of entrenchments with the loss of many prisoners. Lee made several desperate attempts the same day to regain this position, all of which were repulsed with terrible slaughter by Mott's veterans. — There is now in the War Department, at Washington, a relic of that day's fight, — the stump of a white-oak tree, that was cut down

by Union bullets in front of an angle of the breastworks, where the Confederate dead lay piled in heaps. What a monument to desperate valor! Several Confederate officers of high rank were killed or captured that day. The Unionists had to deplore the loss of General Sedgwick some days before.

The campaign continues. It is a march towards Richmond by the flank on both sides — both sides entrenching as they go. At length, on the 20th, General Grant leaves the enemy in his entrenchments. He moves rapidly in the direction of Richmond, in the hope of drawing him out. He takes possession of Milford and Guinea stations on the Richmond and Fredericksburg Railroad,— still he finds Lee in his front. Before the end of the month Grant fights his way to the vicinity of the ground fought over two years before by McClellan, between the Pamunky and Chickahominy rivers, and makes the White House, on the Pamunky, his base of supplies. It is in one of the many sharp encounters in this locality that the able Confederate, Gen. J. E. B. Stewart, is mortally wounded. On the first and third days of June, severe battles are fought at Cold Harbor, ten or twelve miles northeast of Richmond. In the first of these the Confederates are the assailants. They are repulsed with heavy loss. In the second, General Grant attacks the Confederates, purposing to drive them across the Chickahominy. The enemy is driven within his entrenchments, but no decisive advantage is gained. The Union loss was about 7,500 during these days. The Confederate loss was probably not so great. On the second day Lee fought behind entrenchments.

By the 12th of June, General Grant, finding it impossible to dislodge Lee from his works on the Chickahominy, determined to cross to the south side of the James River. He then marched across the peninsula toward City Point. Here he crossed without opposition on the 15th, as General Butler had already won that position by a brilliant dash up the river. The Eighteenth Corps embarked on transports at the White House. It was conveyed down the York River and up the James to Bermuda Hundred, which was also held by General Butler. This change of base, from the front of Richmond, unlike that of General McClellan over the same ground two years before, was made almost without opposition. The lack of opposition now, is a sure proof of decay in the vital aggressive powers of the Confederacy. During the terrible and sanguinary fighting of General Grant on the north of Richmond, General Butler, operating from the Appomattox and the James, temporarily cut off the communications of the Confederates with the south, by destroying the Petersburg and Weldon, and the South-side railroads. He also held Beauregard's army in check at Petersburg and Bermuda Hundred. But Petersburg was not taken, and no essential damage was done to the railroads.

The leading corps of General Grant's army cross the James on the 14th of June. He proceeds to assault the Confederates in their works at Peters-

burg. Hard fighting occurs nearly every day during the latter half of the month, with no decisive results, and with heavy loss to the assailants. There is a lull in active operations during the month of July, except in the construction of a mine under one of the Confederate fortifications, at great cost of labor. This enterprise was projected by Lieutenant Colonel Pleasants, of Pennsylvania. Although it was successfully executed, and four tons of powder were exploded, destroying the fortification and opening a wide passage into the Confederate lines, it came to worse than nothing. The plan was to open a cannonade along the whole line, while the storming party was to rush in when the mine was sprung, and before there was time for the enemy to recover from the astounding confusion. The cannonading commenced immediately; but the storming party was probably more surprised than the enemy. The able and courageous commanders of the Confederates had re-enforcements at hand. The result was, that instead of capturing Petersburg, the Unionists lost 4,000 men in their unsuccessful assault.

Fighting continued during the summer and autumn. It was attended with varied success, but, on the whole, little progress was made toward the capture of the Confederate capital. The Union losses were far greater than those of the Confederates. It seemed as if the resources of the Federal Government were inexhaustible, while those of the Confederates were rapidly dwindling away. It had long been apparent to calm observers that the overthrow of the Confederacy was now only a question of time. Its resources and territory had grown less and less from year to year, and from month to month; and it was now manifest that the end was near.

General Sherman, in command of the combined armies of the Cumberland, the Tennessee, and the Ohio, moved out from the vicinity of Chattanooga on his Georgia campaign, about May 5th. Gen. George H. Thomas commanded the Army of the Cumberland, composed of 60,773 officers and men, with 130 guns. The Army of the Tennessee contained 24,465 officers and men, with ninety-six guns. It was commanded by General McPherson. The Army of the Ohio, composed of 13,559 officers and men, with twenty-eight guns, was commanded by General Schofield. The force under General Sherman, therefore, consisted of 98,797 officers and men, with 254 cannon; of which 88,188 consisted of infantry, 6,149 of cavalry, and 4,460 of artillery.

The Confederate army opposed to Sherman was commanded by Gen. Joseph E. Johnston. It consisted, on the 1st of December, 1863, as stated in Johnston's report, dated Oct. 20, 1864, of 36,826 infantry and artillery, and 5,613 cavalry; total, 42,439. At the beginning of the campaign in May, his force had been increased by 44,900, of which "about 4,000" consisted of cavalry. During the progress of the campaign considerable additions were made to this force, so that when he turned it over to General

Hood, on the 17th of July, it amounted, in spite of heavy losses, to about 41,000 infantry and artillery, and 10,000 cavalry. He admits a loss of "about 10,000 killed and wounded, and 4,700 from all other causes." In his address to the army, on taking leave of it, he said: "The enemy has never attacked but to be repulsed and severely punished"; and yet, had he not retreated, — bravely, to be sure, — before that enemy, from post to post, all the way from Dalton, in the vicinity of Chattanooga, to Atlanta? General Johnston was superseded by General Hood, on the ground that the former had disobeyed orders in failing to attack the enemy while the latter was in favor of an aggressive campaign. The aggressive policy, however, was even more disastrous than the other. It resulted, in six weeks, in the loss of Atlanta, with many thousand men.

The Union losses in killed, wounded, and missing, during the campaign from Chattanooga to the capture of Atlanta, on September 1st, are stated to have been 30,400. The Confederates, before evacuating, destroyed nearly all their immense mass of military stores; still, twenty-seven cannon, some thousands of small arms, and other property, were found secreted by the victors. This central position was the last stronghold of the Confederates in Georgia. Its capture opened the way to Savannah, with but slight opposition, for General Sherman and his victorious army.

Before beginning his "March to the Sea," General Sherman decided upon making Atlanta a military fortress, and upon the expulsion of the whole population of that city. The necessity for this harsh measure is not apparent; but it was executed with as much gentleness as the nature of the case would admit. The people were permitted to go to their friends further south, or within the Union lines, as they might prefer. In the latter case, they were to have free transportation; and in the former their migration was to be facilitated, until they could reach the Confederate lines. A truce with General Hood for ten days was agreed upon, while the involuntary migration of the people was going on. It is stated by General Sherman that, as the result of this military order, 446 families were moved south, embracing 705 adults, 860 children, and 470 servants. They took with them an average of 1,651 pounds of furniture for each family! — all of which was transported under escort, by order of the General, to the Confederate lines, at a place called "Rough and Ready," some twenty miles south of Atlanta. One of General Hood's staff, in a note to Lieut.-Col. Willard Warner, of General Sherman's staff, bears testimony of the uniform courtesy and kindness with which he had executed the unpleasant task of superintending this forced removal of the people. The former expressed the hope that he might some day have an opportunity to reciprocate the kindness of Colonel Warner. Such instances of honor and good faith between public enemies furnish some palliation of the horrors of war. They illustrate the remark of Lord Chesterfield, that a gentleman will perform a disagreeable duty in a way to make the

sufferer from it his friend, while another will make an enemy in bestowing a favor.

After some weeks were spent by General Sherman in resting and recruiting his army, he made a feint of pursuing General Hood, who was moving northward and westward. The latter made several energetic attempts to break up railroad communications between Atlanta and Chattanooga. These efforts were attended with some success. But his attacks on Alatoona, Resaca, and at other points were repelled with loss; and he finally retreated into northern Alabama. He was followed by Sherman, not with the idea of overtaking, but with the hope of inducing him to believe that pursuit was intended, while Sherman's real purpose was to move in the opposite direction. To keep up the delusion of Hood, Sherman detached the Fourth and Twenty-second corps, and sent them off to re-enforce General Thomas in Tennessee. — Having determined to march to the sea, and to subsist on the country, Sherman sent back to Chattanooga the inmates of the hospitals, and all stores not necessary for his purposes. He became indifferent, also, to the preservation of his railroad connections with Tennessee, and of Atlanta itself, which had been the objective point of his spring and summer campaign. The force with which General Sherman enters upon this extraordinary campaign consists of five corps, — the Fourteenth, Fifteenth, Sixteenth, Seventeenth, and Twentieth. These he consolidates into four grand divisions, commanded, respectively, by Generals Jefferson C. Davis, Osterhaus (in the absence of General Logan), Blair, and Slocum.

The writer would fain pause upon the last two names. One is of the dead, the other of the living; both beloved and honored, for patriotic devotion to the Union cause. He would pause, also, to say gentlest words of General Sherman, the master-mind of this march to the sea. Not because he appreciates the strategical ways and means of this dashing and remarkable commander. He never forgot that the Confederates were his own people. The author of this book — to the surprise of its readers, perhaps — now states that it was he who nominated Sherman to President Lincoln as the first choice of Ohio for a brigadier-general, when that officer returned from the South, where he had been teaching in a military school. Why President Lincoln called the Ohio congressmen together for the selection of officers, is one of the inexplicable methods of war by civil service; and how the author — a decided civilian — made such a happy choice, is now manifest as a case of intuitive perception of martial ability and moral greatness.

The army of Sherman raises its banners and moves toward the sea! It is divided into two wings. The Fifteenth and Seventeenth corps are under the command of Gen. O. O. Howard, and the Fourteenth and Twentieth, are under General Slocum. The army consists of about 60,000 men. It is provided with thirty days' rations. These are conveyed in 2,500 wagons, drawn by six mules each, or 15,000 altogether. There are, besides, 600 am-

bulances, each drawn by two mules, the cavalry, artillery, and the horses of the higher officers. The soldiers are ordered to carry two days' rations in their haversacks.

Promptly the grand cavalcade moves off from Atlanta on the 16th of November, by four roads. It marches at the rate of ten to fifteen miles per day. The distance to Savannah is 293 miles. It is expected that the army will arrive there in about thirty days. General Sherman is anxious to keep the enemy in doubt as to his destination. He indicates Augusta as an objective point. But this ruse seems to be unnecessary, as no serious opposition is offered to his march. General Hardee commands the Confederates. Some sharp fighting takes place, but nothing deserving the name of a great battle. That officer, with some 20,000 men falls back. He takes refuge in Savannah. Fort McAllister is invested. It is surrendered on the 13th of December. There being but one outlet left, there is imminent danger of his being captured with the city itself. It is highly probable that this will be the result, if General Sherman sends one of his corps to the opposite bank of the Savannah, fronting the city. But while the feasibility of the scheme is under discussion, Hardee, with his army, goes out quietly. He retreats across the river into South Carolina. The evacuation occurs on the night of December 20th; and being discovered the next day, General Sherman, on the 22d, marches in. On that day he sends a dispatch to President Lincoln, tendering him a Christmas present of Savannah and its stores of cotton-bales.

General Hood, having abandoned his field of operations in Georgia, in despair of successfully opposing the march of General Sherman, turns his attention to General Thomas, in middle Tennessee. He leaves the Tennessee River on November 21st, and takes up his line of march for Nashville. On the 4th, Forrest destroys an immense deposit of supplies — worth six millions — at Johnsonville, on the river, with the gunboats left for its protection. Hood, in his march, occupies Pulaski and Columbia, principal towns in that fertile country, without encountering serious opposition. The forces under General Thomas fall back toward Nashville as Hood advances. General Schofield, with 15,000 men, makes a stand at Franklin, fifteen miles south of Nashville, but finding that he is confronted by a superior force and is about to be attacked on his left flank, he deems it expedient to draw back upon Nashville. Hood rashly follows. He assumes a position in front of Schofield, but at a distance of three miles. His object is to send a force around to the north and west of Nashville. He does this and cuts the railroad connection with Louisville, and blockades the river.

On the 15th of December, General Thomas, in order to defeat the scheme of Hood, attacks his left wing, resting on the river, and drives him back eight miles, capturing two wagon trains, a thousand prisoners, and sixteen cannon. On the 16th, the battle is renewed at all points, and the Confed-

erate lines are broken and routed, with the loss of thousands of prisoners. The pursuit is continued on the 17th and 18th, with further losses by the Confederates of prisoners, cannon, and other munitions of war. A panic seizes the Confederate force. It scarcely pauses until it crosses the Tennessee River, a hundred miles south of Nashville. It is pursued by only a small detachment of Thomas' army. In his official report, dated Jan. 20, 1865, General Thomas states that during the series of actions which took place between September 7th, and January 20th, he captured 13,189 prisoners, including seven general officers and 1,000 others; and that he lost not exceeding 10,000 men. But to the losses of the enemy should be added, sixty-four cannon, 3,079 small arms, and a great amount of other war material. During the same period, 2,207 deserters surrendered, making the loss of men from Hood's army, in prisoners and deserters, 15,396, besides the killed and wounded, which must have amounted to several thousand.

The expedition of General Banks up the Red River occurred in the early part of the year. It should have been referred to on a prior page. He left New Orleans in March with 10,000 men. He was accompanied by Commodore Porter with a formidable fleet of gunboats. Alexandria, Natchitoches, and Shreveport were successively captured; the Confederates under Gen. Richard Taylor, a son of ex-President Zachary Taylor, falling back before the advancing Union army. But just above Shreveport the Confederate general makes a stand. Two battles are fought, the first at Pleasant Hill, in which the victory is conceded to the Confederates; and the second at Mansfield, in which the Union general, while claiming to have successfully repelled the enemy, finds it necessary to retreat down the river. He is hotly pursued. He is compelled to surrender the control of the river and country. He claims that he has inflicted as great losses as he has sustained. The gunboat fleet, or some of the largest of the boats, have a narrow escape from capture or destruction, in consequence of the low water in the river making it impossible for them to pass over the falls. The engineering skill of Lieutenant-Colonel Bailey, a volunteer officer, acting engineer of the Nineteenth Army Corps, comes to the relief of the naval commander. It tides him over the blockading rafts and driftwood, by the construction of a series of dams. General Steele, who had a considerable force at Little Rock, was expected to co-operate with General Banks, but he was detained by the pressing attentions of General Price, the Confederate commander in that department.

The capture of the forts in Mobile Bay and the destruction of the formidable Confederate iron-clad fleet, which had been built at great expense for the purpose of raising the blockade, take rank among the important as well as the most heroic events of the war. Admiral Farragut, in July, received an addition of four iron-clad monitors to his wooden fleet. With the promised co-operation of a military force to be sent by General Canby, he essays, on August 5th, to pass up the bay between the two strong forti-

fications, Fort Morgan on the main land to the east, and Fort Gaines on Dauphin Island to the west. The deep channel runs near the main land at this point. Farragut moves up on that side. His four monitors pass within two hundred yards of Fort Morgan. The wooden ships, lashed two by two abreast, are arranged outside of the line of monitors, and are thus protected from the guns of Fort Morgan. Fort Gaines, on the island, is four miles away. The flag-ship is the Hartford. She is a wooden vessel, and the heroic Admiral, in order to be in a situation to view the whole scene to advantage, lashes himself to the maintop.

When the fleet comes abreast of the fort, it is assailed with great fury by the powerful casemated work ; but so rapid is the reply from the monitors with their heavier ordnance, that the artillerists in the fortifications are driven from their guns. The fleet passes up with comparatively trifling damage, except the loss of one of the monitors, which runs upon a torpedo. But having passed this ordeal, the Union fleet encounters the iron-plated fleet of the enemy, including a ram called the Tennessee, 209 feet in length and 48 feet in breadth of beam. This powerful engine of destruction is more than a match, single-handed, for any vessel belonging to Farragut's fleet. But the huge ironclad is at once assailed on all sides by the monitors and the wooden ships, and finally succumbs after a desperate struggle. The other Confederate vessels are then either run down or taken,— a few only escaping down the bay. General Granger arrives on the 4th with a competent military force. He lays siege to Fort Gaines. The Confederate commander, Colonel Anderson, being cut off from the hope of re-enforcement, surrenders. The commander of Fort Morgan promptly follows his example. The Union forces thus gain complete command of Mobile Bay and harbor.

During the year 1864 the navy — which never failed to do its part under the honest administration of Gideon Welles — rendered invaluable service to the country, and especially to its commerce, by the destruction of the Anglo-Confederate privateers, the Alabama, the Florida, and the Georgia. The sinking of the Alabama under the command of Captain Semmes, off Cherbourg, on the coast of France, by the Kearsarge under Capt. John A. Winslow, was a naval achievement which thrilled the Nation. It reflected great honor upon the officers and men of the victorious ship. The Alabama was the larger vessel of the two, and she was more heavily armed.

Notwithstanding the vigilance of the Atlantic fleet, Wilmington, North Carolina, afforded great facilities for blockade-running. It became an object of importance to the government to close that port effectually against the entrance of the enemy's vessels, as well as against all intercourse with the outer world. This could not be done without the co-operation of the army. But the constant demands for troops at all points inland, caused this pressing matter to be neglected until December, 1864. Then a powerful fleet of ironclads, under Admiral Porter, accompanied by transports,

with 6,500 troops, under Gen. Benjamin F. Butler, sailed from Hampton Roads for New Inlet, one of the entrances to the Cape Fear River. The troops were landed on December 15th, at a point where the Confederates had constructed a strong fortification, known as Fort Fisher.

General Butler devised the plan of breaking down the walls of Fort Fisher by loading a vessel with powder and exploding it within a few hundred yards of that formidable structure. To this end, two hundred and fifteen tons of powder were put into the gunboat Louisiana, which had been disguised as a Confederate blockade-runner. She was towed as near as practicable to the shore. The explosion was terrific, of course, but the noise had less effect upon the sand-protected walls of Fort Fisher than the sound of the rams' horns had upon the stone walls of Jericho. Indeed, nothing was effected by this original but costly device. This futile attempt was made on the 24th of December. It was followed up by a bombardment by the fleet. This is said to have surpassed everything of the kind recorded, up to that time, in naval annals. Admiral Porter states that in one hour and fifteen minutes the fort was completely silenced. The next day, three brigades of General Butler's force were landed two and a half miles above the fort, but they were repulsed by the enemy. They retreated to the transports; and the General thereupon gave up the assault as impracticable, except by entering upon a regular siege. Admiral Porter was strongly opposed to abandoning the attack. His opinion was shared by the government and the country. The result was the supersedure of General Butler by General Terry, who, in command of 8,000 men, sailed from Fortress Monroe early in January. On the 15th of that month, Fort Fisher was captured, with 2,500 men and seventy-two guns. This result was effected by another tremendous bombardment by the fleet, and a brilliant assault of Ames' brigade, after a desperate conflict within the works.

General Sherman crossed the Savannah River on the 6th of January. He commenced his march through the Carolinas. In South Carolina he was followed by the Confederate General Hardee, who had retreated before him through Georgia. Charleston was evacuated and Columbia was occupied after some resistance. The latter city was burned, in spite of all efforts to save it, — burned perhaps, as is stated, by accident. After a short rest at that point, General Sherman continues on his march into North Carolina. About forty miles east by south of Raleigh, the capital of that state, at Bentonville, he encounters the Confederates under Gen. J. E. Johnston. At this place, on March 2d, a severe battle is fought. It is one of the last of the war. It results in the repulse of the Confederates, with the loss of nearly 2,000 on each side, in killed and wounded. Sherman then advances to Raleigh. He takes possession of it, with slight resistance. Johnston retreats up the country, and at Durham opens negotiations for a surrender. Near there, on the 18th of April, the conditions are agreed to. Liberal

terms are conceded to the Confederates. They are disapproved by the government, and the same terms granted to Lee are accepted.

Meantime, while Sherman is pushing north from Savannah, and as the spring approaches, the forces in Virginia under the immediate eye of General Grant are gradually closing in upon his great antagonist, General Lee. The railroads leading to Richmond are cut. The Confederate detachments and foraging parties are captured. Stronghold after stronghold is surrendered until, in sheer desperation, the Confederate Congress, forgetting the original object of the war,—which was to uphold slavery,—resolves in favor of arming the slaves, and giving freedom to all who may thus serve the Confederacy. The Confederates now see the Union lines slowly but surely tightening around them, and that an effort to break them must be made immediately, or all will be lost. Accordingly, General Gordon, in command of a strong force, sallies forth and attacks Fort Stedman, near Petersburg. It is a strong place, but the garrison is small, and this key of the Union works falls into his hands. This was on the 25th of March. Elated with his success, he assails Fort Hascall, but is repulsed by Hartranft with great slaughter, and retreats within his lines, leaving 3,000 of his men *hors de combat*, and 1,800 prisoners.

General Grant, seeing a possible union of the forces of Lee and Johnston, determines to attack the enemy all along his lines in front of Petersburg. Sheridan is Grant's right arm in all the subsequent operations. On the 31st of March, a collision occurs at Hatcher's Run. It is at first disastrous to the Unionists, but re-enforcements coming up, the partial defeat is turned into a victory.—It happened that the writer was at this time a guest of his constituent, General Griffin, of Ohio, and had then his first and only observation of the results of battle.—In this encounter Lee, seeing the purpose of the Union general, becomes the assailant. In like manner he attacks Sheridan at Five Forks. A similar result to that of Hatcher's Run follows. The Union cavalry forces are driven for some distance, but they rally and, in turn, repulse the assailants. During the night, re-enforcements of infantry come up, and the next day, April 1st, the Confederates are routed and driven into their lines by Sheridan. On April 2d, General Grant assaults the Confederate works along the whole line, with great fury. He carries them, and, at last! at last! Petersburg and Richmond are in his hands! That day General Lee dispatches a messenger to Mr. Davis, announcing the terrible disaster he has suffered, and informing him that Richmond is no longer tenable. Mr. Davis is in church when the messenger arrives. The note is conveyed to him as he sits in his pew. He quietly withdraws, with feelings which can be imagined. Richmond is evacuated that night, or before the day dawns on the 3d. The archives of the Confederacy have been packed up for some time; and now the first and last Confederate President, with his Cabinet, and the whole body of auditors, clerks,

and attendants, take a final leave of their capital. They go off by the Richmond and Danville Railroad to Greensborough, North Carolina, and thence, after a short pause, they go to Charlotte, in the same state, where they disperse. General Lee holds out a few days longer, but on the 9th, he makes a final surrender of the Confederate cause; and, as already stated, nine days after, Gen. J. E. Johnston follows his example. Thus died Secession.

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If one would know what immense sacrifices were caused by the war, let him read the Quartermaster-General's reports for that period, up to and including Nov. 8, 1865. No figures of speech can give an idea of the stupendous nature of this great conflict, like the figures of arithmetic and the details of the material used in its prosecution upon merely one side of the contest. In the last of the series of annual reports of the operations of the Quartermaster's Department of the army, for the year ended June 30, 1865, there is a total of nearly five hundred millions, — $459,630,-905.16,— appropriated for that branch of the service. All of this amount was spent up to the 30th of June, 1865, except twenty-seven millions. This money was expended to provide means of transportation by land and water for the troops and their material of war. It furnished the horses for artillery and cavalry, the horses and mules of the wagon trains, provided and supplied tents, camp and garrison equipage, forage, lumber, and all materials for camps and for the shelter of the troops. It built barracks, hospitals, and storehouses, provided wagons and ambulances, harness, except for cavalry and artillery horses, built or chartered transport ships and steamers, docks and wharves, constructed roads, railroad and other bridges, bought clothes for the army, and was charged generally with the payment of all expenses attending military operations, not assigned by law or regulation to some other army department. That department transported the stores of all other departments from the depots to the camps, upon the march and to the battle-field, until they were finally issued to the troops. By adding to the vast expenditure of the Quartermaster's Department, that of the pay, ordnance, subsistence, and medical departments, the reader may have some adequate idea of the resources which were drawn upon for the restoration of the Union. These expenditures were necessary to the comfort, health, and efficiency of the troops. The success of the army in the end, after four years of gigantic struggle, indicates what had been done in that behalf by the accomplished Quartermaster-General, Montgomery C. Meigs.

As an example of the scientific and mechanical energy of the North, take Atlanta as the key of the Confederate defenses in the last year of the war. It is secured after a campaign involving a line of operations three hundred miles in length, which is maintained for months, through a hostile country, so effectually as to enable an army of 90,000 men with over 40,000 animals, to subsist not only while advancing, but, what is much more difficult, while lay-

ing siege for weeks to that advanced position, with a long line of communication to be guarded. In no other country were railroads brought to perform so important a part in the operations of war. Never were performed such rapid feats of construction as those which illustrated the campaigns in America. Not merely in the reconstruction of bridges which were duplicated, in the production of locomotives, the laying of telegraphs, the building of steamers, the making of guns, and in furthering and consummating the blockade, but in a thousand other ways, did the North give evidence of that strength against which the Southern legions surged in vain.

It does not detract from the chivalric courage of the Confederate soldier, however humble his station or high his rank, that he succumbed before the vast mechanical forces of the North. The South was not distinguished for inventive mechanical genius. It was only in a few localities that she had the facilities to construct what was indispensable to war. Her mechanical instrumentalities were few and far between, for the South was a country of planters. Her ways, one would have supposed, would have been the ways of pleasantness and all her paths — of peace. But there was a sentiment of chivalry about the nature of her sons which led them inconsiderately to dash, Quixotically, against the locomotive, which is the emblem and the proof of the chemical and mechanical forces of our time. If the South at last lost her cause, it was because she had never gained that skill in invention which has no parallel in the world, and which has had its home in the North, and principally in the New England States.

What can surpass 1,769 miles of military railways repaired, maintained, stocked, and operated by the agents of but one of the many army departments? What quantities of iron were needed in the repair of so many miles of track; and what great quantities of iron had been burned and twisted by the contending forces. Even rolling-mills were established by the Union troops in such cities as Chattanooga,— mills capable of re-rolling the rails which had been seemingly destroyed, at the rate of fifty tons of railroad iron per day. Three hundred and sixty-five locomotive engines and 4,203 railway cars, at an expenditure of twenty-two millions of dollars, were operated by General McCallum, in the last year of the war. The number of army railway men employed in April, 1865, when the war was closing, was 23,533. The military telegraph lines were kept up at an expense of $75,000 a month. The number of miles in operation during the last year of the war was 8,201 on land, and 121 submarine. During the whole time of the war 15,000 miles of military telegraph were constructed and operated. In the year 1863, the telegraphic expense averaged as high as $38,500 per month. The total expenditure of the telegraphic business from the 1st of May, 1861, to the 30th of June, 1865, was $2,655,500. The quantity of forage, fuel, and regular supplies consumed is simply incalculable and stupendous in amount. Years must intervene before the claims growing out of this enormous consumption, and for the labor

in suppressing the greatest insurgency known to history, shall be entirely ruled out by a statute of limitations. Whether in the field or at the depot, there was no intermission to the labor and responsibility of Montgomery C. Meigs, the Quartermaster-General of the Union Army. He is not generally reckoned among the heroes of the war, and many regard him as only a little higher than the Chief Commissary, and perhaps the latter not much above the sutler. But the record of merits and services of the officers in this department during the war, in caring for the material and the men, and the money for the support and sustenance of the armies in every part of their wonderful and wide field of operation, over the period of four years, is a history of faithful, laborious, zealous, successful, and honorable labor, which has no parallel in the annals of other wars, in other ages and other countries.

It is almost impossible for human calculation to estimate even approximately the waste, losses, and miseries attendant upon the civil conflict of which the author has attempted a faint sketch in this and the three preceding chapters. These can be understood only by looking, not merely at the immense columns of the Union army and its 2,800 battles, but at the immense columns of figures which indicate the immensity of the expenditure. The number of men in the United States armies from 1861 to 1865 was 2,859,132. This, of course, includes terms of service as short as thirty days, a large proportion of "three months" men, and two years' terms, besides an immense number of veteran re-enlistments, after three years' service. The amount of bounties paid was $285,941,036. The number of casualties in the volunteer and regular armies reported by the Provost-Marshal-General was 61,362 killed in battle, 34,727 died of wounds, 183,287 died of disease, making the total number of deaths 278,386. The total number of desertions was 199,105. These figures are taken from the official report on the subject. A partial statement of the number of casualties in the Confederate service shows the number of deaths from wounds or disease to have been 133,821; and a partial statement of the number of desertions shows the total loss from that cause to have been 104,428. The number of United States soldiers captured was 212,608, and the number of Confederates captured, 476,169. The number of United States soldiers paroled in the field was 16,437, and the number of Confederate soldiers paroled in the field, 248,-599. The number of United States soldiers who died as prisoners of war was 29,725, and of Confederates, 26,774. A special report of the Secretary of the Treasury to the United States Senate, dated June 10, 1880, gives an itemized statement of the gross expenditures of the government from July 1, 1861, to June 30, 1879; showing the expenditure other than for the war, and the expenditure growing out of the war.

The gross expenditure was	$6,844,571,431
The ordinary expenditure was	$654,641,522
The war expenditure was, therefore, ...	$6,189,929,909

The aggregate, of course, includes the public debt, and interest on it for that period, but not the interest paid since June 30, 1879. Nor does it include the vast sums paid since June 30, 1879, for pensions and arrears of pensions, and for pay of retired army and navy officers. These additional expenditures will amount to at least $800,000,000 more.

The average number of men in the United States service during the four years of war would fall but little below one million. They mostly belonged to the class of laborers and mechanics; and nearly all had been contributing to the common weal by occupations of one kind or another. Their earnings, in peaceful avocations, would have averaged $1.50 per day, and for 312 working days, $468,000,000, or $1,872,000,000, during their four years in the army.

An approximate statement of the cost of the Civil War may, therefore, be given thus:

Expenditures prior to June 30, 1879, ...	$6,189,929,909
Interest on public debt, pensions, etc., since June 30, 1879,	800,000,000
Producing capacity of 1,000,000 laborers for four years, .	1,872,000,000
Total expenditure and waste, ...	$8,861,929,909

To this sum must be added the accounts for the destruction of property North and South, and for the producing capacity lost in the South of at least three-quarters of a million of men for four years. It will be safe to state the losses on these accounts at $2,000,000,000. This gives a grand total of national loss, amounting to $10,861,929,909! This estimate leaves out of view the losses of the white people of the South by the overthrow of slavery, as the effect of abolition was not to destroy property, but merely to transfer the title to the slave and make him his own man.

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It has been thought by sanguine men, looking for the dawn of a better and millennial day, that arbitration would be the grand factor in the arrangement of disputes among nations, but it does not appear that the great wars have made the ambitions of kings and princes more peaceful and virtuous. The making of great guns which are outdoing and penetrating the thickest armor, and the appliances of steam and chemistry for explosive purposes, may lead to such a destruction of human life and human property as to halt the movement of the nations in their warlike designs. The refinement of horrors and blood may lead the nations to peace. But no element should be so important in estopping these preparations and conflicts as the mighty cost in money as well as of life. The Austro-Prussian war destroyed forty-five thousand men at an expense of three hundred and fifty millions of dollars; the Italian war the same number of men at almost the same cost; the Crimean war destroyed seven hundred and eighty-five thousand men at an expense of seventeen hundred millions. The war which is approaching in

Europe or Asia, or both, may, as some one has said, confound all statistics and appall all arithmetic. The war in our country from 1861 to 1865 may yet appear no larger than a speck on the horizon — no larger, perhaps, than Herat appears to-day in Central Asia, around which are mustering the hordes of India and England, and of Russia and her confederate tribes. When the war-cloud appeared upon our horizon, in 1861, there were men — and the author was among them — who preferred the bonds of love without the armor of force; who found in the Sermon on the Mount a wisdom beyond that of President or priest. The author never went so far, perhaps, as Charles Sumner, in his speech on the true grandeur of nations, when he pronounced all international war to be civil war, and the partakers in it to be traitors to God and enemies to man; or when he quoted Cicero to show that he preferred an unjust peace to a just war, and Franklin to show that there never was a good war nor a bad peace. Mr. Sumner declared that in this age there can be no peace that is not honorable. In carrying out this comprehensive and Christian thought, the writer was living up to a democratic principle laid down by Madison before the War of 1812. It was this: That war is only rarely tolerable as a necessary evil, to be kept off as long as, and when it takes place, to be closed as soon as possible.

In closing this chapter, the writer would fain inculcate the teachings of the Prince of Peace — Him who spake from the mountains of Judea, as never man spake. Nay, not from the mountains, but from one lone, unknown mountain. All lights are but subordinate around the central light which came from the mountain whence the great Sermon was spoken. Its name is unknown; its locality has no geography. All we know is, that it was "set apart." The mountains of our Scriptures are full of inspiration for our guidance. Their teachings may well be carried into our political ethics.

Along with these teachings and to the same good end, are the teachings of history, patriotism, chivalry, and even economic selfishness. Yet these worldly teachings are often blind guides to duty. They are but mole-hills compared with the lofty mountain whose spiritual grandeur sheds the light of peace, order, and civilization to a suffering world. When these principles obtain in our hearts, there will come a glorious era for the world. Then, the reminders of our sad and bloody strife will not be in vain, if they cause the Nation to rise in supernal dignity above the party passions of the day. Then, that party which vindicates right against might, freedom against force, popular will against lust of power, rest against unrest, and God's goodness and mercy around and above all, will, in that sign, sway and direct the destinies of America.

CHAPTER XI.

PERSONAL LIBERTY ABUSED AND VINDICATED.

A WAR FOR THE CONSTITUTIONAL UNION — RADICAL OPPOSITION — PERSECUTIONS BY ANTI-SLAVERY RADICALS — GENERAL GRANT'S LETTER OF 1861 — HIS DOCTRINE OF NON-INTERFERENCE WITH SLAVERY — A WAR OF SUBJUGATION — THE EXTREMES SOUTH AND NORTH — PROCLAMATION OF MARTIAL LAW IN 1861 — ARBITRARY ARRESTS IN 1862 AND AFTERWARDS — HABEAS CORPUS SUSPENDED — OUTRAGEOUS ORDERS OF SECRETARIES STANTON AND SEWARD — ARRESTS — MARSHALS, SPIES, AND COMMISSIONS — STANTON DICTATOR — GRAND EFFORT OF DANIEL W. VOORHEES IN CONGRESS — DARK HOURS FOR THE REPUBLIC — CAPITAL FATTENING ON CONTRACTS AND SPOILS, AND LEAGUED WITH FANATICS — GOVERNOR SEWARD IN HOME AFFAIRS — PERSONAL LIBERTY DISCUSSED — BINNEY'S PAMPHLETS AND THE RESPONSES — THE MILLIGAN CASE — THE SUPREME COURT AS A BREAKWATER — MILLIGAN SENTENCED TO DEATH — VALLANDIGHAM'S CASE PARALLEL — HIS PROTEST — THE TRUMBULL LAW — GRAND ARRAY OF COUNSEL IN MILLIGAN CASE — LOGIC OF THE DECISION — THE MRS. SURRATT TRAGEDY VIOLATIVE OF THE DECISION — GENERAL BUTLER DENOUNCES IT — MILITARY ARRESTS IN CONGRESS — GALLANT FIGHT OF HENRY WINTER DAVIS FOR PERSONAL LIBERTY — HE SUCCEEDS — LIBERTY DEATHLESS — MAGNA CHARTA — DAVIS ITS CHAMPION — SKETCH OF HIS LIFE AND SERVICES — THE OLIVE-BRANCH NOT OFFERED YET — LESSONS OF HISTORY SPURNED — THE WAR LIKELY TO END WITH PRACTICAL DISUNION — THE SECOND DECADE BEGINS WITH RECONSTRUCTION OF DISMANTLED STATES — HOPE FOR THE PEOPLE — BEAUTY FOR ASHES.

IN this chapter will be presented the attitude and action of the two great political parties of the North during the Civil War, in regard to the liberty and rights of American citizens.

It has been shown in preceding chapters that the war could have been avoided by the adoption of the Crittenden proposition in the Thirty-sixth Congress. It was not out of any regard for slavery as an institution that the friends of peace and Union offered to amend the Constitution in the mode proposed by Mr. Crittenden. The purpose of those who favored such an amendment was to eliminate from national discussion all questions relating to slavery. They desired to leave that decaying institution to exhaust its

vitality in a natural death. They were content, as a famous Ohio platform said, to live in the hope of its ultimate extinction. Being incompatible with the enlightening influences of a progressive age, it could not long survive. Its death being a question of a few years, or at most a generation, was it not wise statesmanship to seek to avoid a conflict that might dismember the Union? Such a conflict must imbrue the whole land in blood, and certainly maintain, if not generate, sectional animosities both bitter and lasting.

The conflict of arms was far from being irrepressible, whatever might be the character of the moral conflict between the spirit of liberty and the spirit of slavery. And even after it had commenced, its continuance was not, at any time, an absolute necessity for accomplishing a peace with union — if slavery were left as for seventy-five years of constitutional government it had existed, namely, a state institution — a domestic relation. These are the views which actuated the Democracy of the North in accepting the Crittenden proposition. They sought above all things to avert a war of sections. It became a capital tenet of Democratic faith, that war could be avoided, and, after the war came, that peace and union were at all times within reach, on terms of compromise honorable and equitable to both sections. It is in this light that the course of the Northern Democrats is to be judged, preceding and during the secession war. They would shed no blood either to maintain or to destroy the institution of slavery; but all that they had would be freely given to maintain the Union, and the supremacy of the Constitution of their fathers. They ask no special credit for destroying slavery, — the war effectually did that, and they were not aloof from its perils. They scorn the charge that they desired to maintain it as an institution. They wanted slavery to die in peace, rather than in war. The idea of a temporary sacrifice to slavery with a view of maintaining the Union, was always paramount in the Democratic councils. It would be waste and excess, to detail the acts of the factions which precipitated the whole people into a state of war. It is sufficient to say that war was forced upon the country, while the great mass of the people desired peace. Is evidence required on this point? Let the letter of General Grant — just published — dated, Galena, April 19, 1861, speak the sentiments of the party of which he then was a member. After referring to the reprehensible conduct of the states in so prematurely seceding, he says: "In all this I can but see the doom of slavery. The North does not want, nor will they want, to interfere with the institution, but they will refuse for all time to give it protection, unless the South shall return soon to their allegiance." The Democratic party felt that each age would work out its own reforms; and that those which come according to general desire are the best and most enduring.

The rising generation have often heard it charged that the Democratic party gave its sympathy to secession. Was there any justification for that charge? Had the seceding states any grounds for expecting that North-

ern Democrats would ever submit to a dismemberment of the Union? Let the response to the pealing of Sumter's guns give answer. Were they Democrats, who urged the "wayward sisters" to depart from the Union? Were they Democrats, who asserted that Union with the South was "a covenant with hell?" Were they Democrats, who called the flag of the Union "a flaunting lie," and wanted to tear it down? Were they Democrats, who hounded on the war, and then bought southern negroes to fight the battles in which they would not risk their own lives? How many regiments of Georgia and South Carolina negroes carried the flag of Massachusetts in the fore-front of battle? How many abolitionists of that state were hiding from the draft, or paying men of alien birth to enlist as their substitutes? It was such craven creatures as these, who charged Northern Democrats with secession sympathy. Who, in the North, had long been willing to destroy the Union? By what irony of events was it, that these creatures — who were at all times more disloyal to a constitutional Union than the most violent secessionists — wormed themselves and their plots into national affairs, and prolonged a war in which they had no part, except to incite the conflict and fan the flames of passion?

There is no comprehending the ascendency of the radical element in the conduct of the "War for the Union," except on the principle that in war, and especially an internecine war, the worst passions obtain the mastery. The Federal Administration, had it disregarded the whisperings of the fanatics, could have restored peace to the land, and "the Union as it was." It could have done this before a shot was fired or a bayonet crossed. Was it any wonder, then, that the Democratic party, which had sprung to arms at the first call of — "save the Union!" was, at every step of the struggle, outspoken for, and anxious to make, peace? Was it any wonder, that with peace always attainable, the Democratic party opposed every extreme, unnecessary measure of the radical party, which was prosecuting the war on the false pretence of saving the Union, while seeking above all things to destroy slavery, irrespective of the fate of the Union? Democrats in the ranks of the Union armies were constantly told that their party was disloyal to the Union. Thousands of these soldiers were led to give credence to the charge, because the army did not understand, what the Democratic leaders knew, namely, that the war was prolonged for party purposes. But the reader must see that it was the Republican leaders who were the Northern disunionists. The Union armies were fighting for the restoration of Federal authority, while the Republican leaders were conducting an abolition crusade,—a war of conquest, of subjugation, and constitutional amendment, by force and arms. Between a war for the Union, and the war as conducted by a Republican Administration that was daily succumbing to the fanatics, there was a vast difference. It is by the length of this difference that the present and future generations must estimate the status

of the leaders of the Democratic and Republican parties during the Civil War and the period of reconstruction which followed it. No candid man of intelligence, who participated in or observed the trying ordeals of the struggle, will say that the soldiers in the Union armies would have fired a shot, had they believed that peace could have been restored with the Union as it was, under a national pledge not to interfere with slavery in the states or territories. The men who wanted to violently interfere with that institution would have been left to settle the abolition question the best way they could, or else fight it out among themselves. To recruit armies for such a contest would have been impossible.

Having made this preliminary statement as explanatory of the stand taken, and gallantly maintained, during and after the war by the Democratic party, in behalf of the civil liberties of the people, the author will now proceed to the subject of this chapter.

When it began to be surmised that the destruction of slavery was the main object of the Republican party in prosecuting the war against the South, the Democratic leaders exposed the duplicity of that party. As long as it was a war for the Union, all party issues had been suspended; but now that the radical policy began to assert itself as dominating in the conduct of the war, the Democrats feared that the effect would be to drive the seceded states into the attitude of carrying on a struggle for the defense of constitutional rights. Here was a predicament. It called for grave reflection. There was abundant evidence of a desire for peace in the South. The people of that section had been carried into secession by surprise. They had cooled down. After all, was it true that the Northern people had determined to invade the rights of the Southern States? Some of the people of the South began to think that their representatives had been too precipitate in their action. They had heard from the North that the war was for the restoration of the Union,—with no other intention than to restore the former Federal relations. The Republican and Democratic parties had both united in proclaiming that this was the one solitary object of sending the national forces into the South. In this condition of affairs a peace commission could have settled the troubles at any time during the winter of 1861–'62. From this time forward, Democratic patriotism was sorely tried. It had to stand between the reckless madness of the Southern leaders, and the fanatical determination of the radical Republicans. The latter had determined to destroy slavery; or else to blast all hopes of a restored Union. If the Democrats should withdraw their support from the Administration, then, beyond doubt, the Union would be forever gone. As the lesser evil, they gave all their strength to the prosecution of the war, while daily and hourly urging measures for peace. On both sides, North as well as South, the further prosecution of the war grew daily less popular. In the North, the volunteers had to be rejected by tens of thousands when the cry was, "Fight for

the Union." When to this cry was added the command—"Fight for the negro," there was great need of conscription.

In order to carry on such a war, it was necessary to deceive the people. This could be best accomplished by incessantly charging that those who favored a speedy termination of the contest were traitors, and abettors of rebels. Undoubtedly there were a few persons here and there in the Northern states, who believed in secession, and who sympathized with the South; but they had neither the numerical strength nor the courage to endanger or impede, by any hostile action, the success of the Union armies. There were laws on the statute-book, and courts to administer them, for treasonable and the like offenses. The fact that no case was prosecuted under these laws in the courts of justice, during the war, is the best proof of the insignificance of such secession sympathy. But, in order to stir up the worst passions, it was determined in the radical councils, to create an impression that Democratic condemnation of the object for which the war was really being conducted, was moral if not legal treason. In pursuance of this policy, it was declared that martial law in the North had become a necessity for the successful prosecution of the war. This policy was inaugurated almost with the Administration itself. It received, against strenuous Democratic opposition, the sanction of Congress, by the act of Aug. 6, 1861. It came to the climax of outrage on Sept. 24, 1862, in the Presidential proclamation, issued that day, for a draft on the militia of the states. Many arbitrary arrests were made from the start, without any charge of violation of law. The decision of the Chief Justice of the United States denying the validity of such arrests had been contemptuously disregarded as early as May, 1861. Military commanders, as early as that date, had, at their own discretion, proclaimed martial law. They refused in the open circuit of the Chief Justice to recognize his writ of *habeas corpus!* Was it any wonder, among a people so devoted to an honest and effective prosecution of the war for the Union as those of the Northern states were when Fort Sumter received its baptism of fire, that a draft became necessary the following year under such a perfidious policy?

But the Secretary of War did not wait even for the formality of a Presidential proclamation. He began early to carry out the vindictive policy of his partisans. Not content with ordering the arrest of innocent citizens by the military arm, he issued an order on Aug. 8, 1862, to "all United States marshals, and [in contemptuous disregard of all limits upon Federal authority] all superintendents and chiefs of police of any town, city, or district," to arrest and imprison any person or persons who might be engaged, by any act of speech or writing, in discouraging volunteer enlistments, or in any way giving aid or comfort to the enemy, or for any disloyal practice against the United States. These officers were at liberty to decide for themselves as to what was a "disloyal practice." They

were required to make an immediate report to Major L. C. Twiner, Judge Advocate. The arrested persons were to "be tried before a Military Commission." The expenses of their arrest and imprisonment were to be "certified to the Chief Clerk of the War Department for settlement and payment." It had come to this, that, in order to carry on the anti-slavery crusade, every man and woman in the North, who, by any act of speech or writing, might express any sentiment in condemnation of such a war, was to be subject to arbitrary arrest, with or without charge of any kind, by marshals, police, spies, and detectives. They were to be tried by military commissions, when state and Federal courts were everywhere open for the administration of justice. Thus early in the war, not only was the privilege of *habeas corpus* suspended in every state in which Federal authority was recognized, but trial by jury was abolished by the precept of an American Cabinet minister. The Administration had felt its way to this point. The operation of the great writ had at first been suspended in Maryland and the District of Columbia. The people of the North had acquiesced, — until, at last, Mr. Stanton became the military dictator of the whole North.

From this time onward, the Democratic party leaders had to fight the battle of civil liberty. Before them was the prison with its shackles! Nobly and fearlessly they performed this duty. At the same time, they put their whole strength to the crushing out of the insurrection that had given opportunity to the party in power to carry out to the bitter end all its fanatical hates and schemes. Under this order of Mr. Stanton's, thousands upon thousands of as loyal citizens as ever drew breath were arrested in the most brutal manner, without charge or specification of offense. All the national fortresses and military prisons were, from this time on, crowded with citizens, who were denied any appeal to the courts of justice, or even the tender mercies of a military commission. Arrest, confinement, and denial of justice was now the radical policy. This was the policy to overawe those who desired the Union of their fathers. It was under these circumstances, that Mr. Voorhees, of Indiana, — then, as now, an eloquent tribune of the people — arose in the House of Representatives, on Feb. 18, 1863, to denounce that policy. He said, after discussing the framework of our government and its three departments: "The present Executive of this government has usurped the powers of the legislative and judicial departments of the Constitution, to an extent which is totally subversive of republican institutions, and not to be borne by a free people." Referring to the proclamation above cited, he said: "It gave access to the vaults of the prison, but not to the bar of justice. It is a part of the nature of frail man to sin against laws, both human and divine; but God Himself secures him a fair trial before punishment, and tyrants alone repudiate the justice of the Almighty. To deny to an accused person the right to be heard in his own defense, is pre-eminently the attribute of the worst ages of brutal despotism. Condem-

nation without trial, and punishment without limitation, is the exact definition, to my mind, of the most atrocious tyranny that ever feasted on the groans of the captive, or banqueted on the tears of the widow and fatherless. And yet, on this spectacle of horror and shame, American citizens have been gazing more than a year! The great bulwark which generations in bloody toil have erected against the wicked exercise of unlawful power, has been torn away with a parricidal hand. Every citizen in the Republic — the farmer at his plow, the mechanic in his shop, the merchant at his counter; every calling and profession of life, from the proud man in his mansion to the humble one in his cabin — all stand this day risked and exposed, utterly and entirely at the mercy of one man, and of the fawning minions who crouch before him for pay. It would be the natural supposition of every intelligent mind, that an argument to prove that there is a warrant in the Constitution for this state of affairs would be an insult to the genius of the Revolution in which our liberties were won, — an outrage to the memory of the great dead of that period, and a mockery to the common sense of the world. But the spirit of abject servility, which always invites the arrogant assumptions of power and precedes the downfall of liberty, is performing its loathsome office on every hand. We hear on every side the old cry of the courtier and the parasite. At every new aggression, at every additional outrage, new advocates rise up to defend that source of patronage, wealth, and fame — the department of the Executive. Technical and obscure rules, cunningly devised special pleas, skillful and deceptive sophistry, all combine in the hands of the supporters of the Administration, to tear away from the people the protection of the laws of their own making. Such assistance has always waited on the most malignant efforts of tyranny. Nero had his poet laureate, and Seneca wrote his defense for the murder of his mother. The present dark hour affords ample evidence that human nature is the same that it was two thousand years ago."

There lies upon the author's table a volume by John A. Marshall. It is called the *American Bastile*. It is a history of the illegal arrests and imprisonment of American citizens during the Civil War. Mr. Marshall, in the language of Giusti, writes bitter things, "because his soul is bitter for thy sake, O Freedom." It has the significant motto: *Γενεσθό Φῶς*. At last the light dawns! Into this repertory of bitter things, we look; and lo! the contrast of the illustrations. On one page is the old Liberty Bell, albeit cracked, but still in form and its legend plain. On the other side is the little bell of which Mr. Secretary Seward vaunted when he said to Lord Lyons, the British Minister, "My Lord, I can touch a bell on my right hand and order the arrest of a citizen of Ohio. I can touch a bell again, and order the imprisonment of a citizen of New-York; and no power on earth, except that of the President, can release them. Can the Queen of England do as much?" Then follows a list of over a hundred of the victims of the bastile; from

Colonel Lambdin P. Milligan to Francis Key Howard. Among them is Edson B. Olds, the author's predecessor from Ohio in Congress, whose long imprisonment in Fort Lafayette was the special reproach of the Administration. At the end of the volume is an engraving of the key of the French Bastile — the key which was presented to Washington by Lafayette. The engraving tells the story in a symbolic way of the memorable abuses of the American *Lettres de Cachet*. How strange that they should have been illustrated in a Bastile called "Fort Lafayette!"

It was, indeed, a dark hour for the Republic. In the South a similar condition of affairs existed, but from a very different cause. The more intelligent portion of the people of that section began to realize that all their interests would have been safer in the old Union. Already, they had enough of war and its slaughters. Pride of manhood alone sustained their armies. They were ready to abandon the conflict on any honorable terms. Conscription was resisted; the strength of the South was exhausted; the cause was already lost. Desperation alone sustained the conflict, and that desperation was due largely to the implacable hatred of the ultra-secessionists and the Northern radicals. They defeated every effort to tender the South the olive-branch of peace and re-union. The worst type of selfish interest gave overpowering strength to the excesses of Northern radicalism. The demands for war material, and the enormous disbursements of this period — averaging about two millions of dollars a day — gave a rich harvest to capital, wherever invested. Government contracts gave fortunes to thousands of men who fattened on the carnage of war. What cared they for the blood shed, or the destruction of sacred constitutional rights! Was not war more profitable to them than the richest dividends of the most prosperous peace? It was not the manufacturers, nor the contractors, nor the vast array of civil retainers, nor their sons that were dying on the battle-fields, or retiring from bloody conflicts maimed and broken in health. What cared these men and the radical conspirators how long the war might be protracted. If their nefarious schemes would be successful in the end, that was all they cared for. The natural resources of the country were inexhaustible. So was the surplus of foreign labor. The war might be fought until the rank and file of the American people, North and South, had exterminated each other. The country would still remain. The ill-gotten wealth would remain. The industrial aliens would come to occupy the places of the dead. The radical policy was war! war! until the South should lie prostrate at the feet of the zealots. No constitutional safeguard was allowed to stand in the way of this policy of pelf and extermination.

If there is one right of which the American citizen has the most reason to be proud, it is that of personal liberty. It includes free speech. Yet this was the very first right invaded by the Federal Secretary of War. In internal affairs he was the government. The President and Secretary of

State merely executed his orders. In the conduct of our foreign affairs, the author has justly eulogized the administration of Mr. Seward. It was a marvel of astuteness and ability; but, for his home action, there is not one word to be said of justification. It was only when the war was approaching its end, that President Lincoln and Mr. Seward evinced a spirit of regard for civil liberty. They then began to show the liberalities of their better nature. Contrast this spirit with that which actuated the bulk of the Republican leaders. Mr. Seward and Mr. Lincoln will pass for angels of peace in the closing scenes of the terrible conflict. They then illustrated the maxim,—*Inest clementia forti*, on which Grant and Sherman acted.

As stated by Mr. Voorhees, the suspension, during the war, of the privileges of *habeas corpus*, and the declaration of martial law throughout the Union, were sustained by technical construction. The executive powers in regard to these matters were discussed by the ablest jurists of the day. As a matter of course the Attorney-General of the United States gave an opinion in harmony with Mr. Stanton's desires. Even that Nestor of the American bar, Mr. Horace Binney, of Philadelphia, gave his great reputation in support of the theory that the President had a constitutional right to suspend the operation of the writ of *habeas corpus* at that time. His views were published in an elaborate pamphlet in December, 1861. It was followed by another in April, 1862. These publications drew out a most learned discussion of the question. Other distinguished jurists took part, mostly in the negative. The discussion was exhaustive. No one can read the pamphlets and replies without being convinced that if ever a people made a greater effort than those who framed the Constitution of the United States, to preserve to the citizens the right of trial by jury and security from arbitrary or military arrests, history has failed to record the fact. Yet, fortified by the opinion of Horace Binney, the radicals proceeded in their terrible onslaughts upon civil liberty. They pushed through Congress—under the lash of party—an act of indemnity for all violations of constitutional rights of which the Administration was or might be guilty during the war.

It was not until December, 1866, that the Supreme Court had an opportunity to put the stamp of infamy on these high-handed proceedings. This was done at that time in the celebrated case,—*Ex parte* Milligan. It is reported in 4th Wallace, United States Supreme Court reports. Lambdin P. Milligan and other citizens of the State of Indiana, had been victims of one of the many arbitrary acts of the military satraps who obtained sway everywhere under the orders of Secretary Stanton. Mr. Milligan was a peaceable and respected resident of the State of Indiana. On the 5th of October, 1864, he was arrested at his own home. He had never been in the United States military or naval service. Indiana was then, as always, a loyal state. No state sent braver regiments or a larger quota of her sons to do battle for the Union. Then, as now, the great majority of her people were Demo-

crats. Most of her soldiers were Democrats. They were not fighting to free negroes. They were battling for the restoration of the Union. They fought for peace, and for the restoration of good feeling, North and South. They knew by this time that, in effect, they were fighting for the negro, but they had no choice left. If they now abandoned the field the Union would be lost, so they fought on. The South deserved to lose its slaves, but it was not to enforce that desert that the mothers of Indiana had sent their sons to the field. The Democrats of Indiana were among the most loyal to the Union and the Constitution. They were free and fearless. They freely denounced the abolition tendencies and turn that the war had taken. They did not hide in caves, nor conspire in secret, when they expressed their sentiments. The spies and informers of Mr. Stanton were everywhere. They swarmed in Indiana. They started stories of conspiracies. When were spies and informers ever at a loss for a story to please their employers? Mr. Milligan had been among the most fearless in denouncing the tyranny of the times and the tendency of the Administration. He must, therefore, be made a terrible example, in order to deter others. On the day above stated, he was arrested, by order of Brevet-Major-General Hovey, the military commander of the District of Indiana. He was confined in a military prison at the capital of the state. Major Burnett, the Judge Advocate of the Military Department of the Northwest, then preferred charges against the prisoner, as follows:

1. Conspiracy against the government of the United States.
2. Affording aid and comfort to rebels against the authority of the United States.
3. Inciting insurrection.
4. Disloyal practices.
5. Violation of the laws of war.

These were elaborated by corresponding specifications.

A military commission was appointed to try Mr. Milligan on these charges. He was placed on trial on the 21st of the same month. He objected to be tried before such a tribunal. He, of course, denied its jurisdiction over him, as a citizen of a state in which neither war nor insurrection existed, and in which the civil courts, both state and national, were open. As a matter of course, in those times, his plea was at once overruled. He was promptly found guilty of all the charges. He was sentenced to suffer death by hanging, at the hands of the provost-marshal. This sentence having been approved, Mr. Milligan was ordered to be executed on Friday, the 19th of May, 1865. It seems incredible now, that such an act could have been done, and the intelligent and freedom-loving North have submitted. It seems more incredible that such a destruction of the muniments of liberty should have been attempted for the purpose of sustaining the Constitution and its Bill of Rights. But since the forced expulsion of Vallandigham out

of his own state, and beyond the military lines, — what might not be expected? That patriot's last words to his fellow-citizens from a military prison at Cincinnati, on May 5, 1863, — still echoed throughout the land:

"I am here," he said, "in a military bastile for no other offense than my political opinions, and the defense of them and of the rights of the people and of your constitutional liberties. Speeches made in the hearing of thousands of you in denunciation of the usurpation of power, infractions of the Constitution and laws, and of military despotism, were the sole cause of my arrest and imprisonment. I am a Democrat — for Constitution, for Law, for the Union, for Liberty — this is my only 'crime.' For no disobedience to the Constitution, for no violation of law, for no word, sign, or gesture of sympathy with the men of the South who are for disunion and Southern independence, but in obedience to *their* demand, as well as at the demand of Northern abolition disunionists and traitors, I am here in bonds to-day. Meantime, Democrats, be firm, be true to your principles, to the Constitution, to the Union, and all will yet be well. As for myself, I adhere to every principle, and will make good, through imprisonment and life itself, every pledge and declaration which I have ever made, uttered, or maintained from the beginning. To you, to the whole people, to time, I again appeal. Stand firm! Falter not an instant!"

These heroic utterances were heard from Maine to California, and yet the baleful work went on. It was not alone the arrest of such innocent and free-spoken persons wrongfully, but the freedom of the press was violated. Newspapers were stopped, especially at the East, where such staid papers as the *Journal of Commerce*, and such conservative journals as the New-York *World* were seized for simply anticipating the news. Their reporters were held in durance. The bastiles were crowded with victims, untried and helpless. The Milligan case was so atrocious in tyrannical vindictiveness, that it gave hope within the crowded bastiles. It became the leading case for settling all questions of military jurisdiction. On the 10th of October, 1864, Mr. Milligan filed a petition to the Circuit Court of the United States for the District of Indiana. He presented the facts of his case, and sustained them by documentary evidence. The petition further set forth that while held in the manner stated, and for more than twenty days after his arrest, a grand jury of the United States Circuit Court was convened at Indianapolis. It had been duly impaneled, charged, and sworn. It had held its sittings, and finally adjourned without having found any indictment or presentment against him. The prayer was that under the act of Congress of March 3, 1863, known as the Trumbull bill (the same which the writer had invoked in Vallandigham's case), the petitioner might be brought before the United States Court, there to be proceeded against according to the law of the land, or discharged from custody altogether. This act of Congress authorized the President to suspend during the rebellion the writ of *habeas*

corpus throughout the United States, but it did not attempt to authorize a declaration of martial law, under which alone a civilian could be tried by a court martial or military commission. The most that a subservient Congress dared to do by that act, was to suspend the privilege of *habeas corpus*, for a limited time, in cases of arbitrary arrest. The act required that lists of all parties so arrested should be furnished to the judges of the United States Circuit and District courts of the district in which the prisoners were held. These lists were to be submitted to the grand jury, that they might inquire into the charges made. If that body terminated its session without proceeding by indictment or otherwise against any prisoner named in the list, it was made the duty of the judge of the court to order the prisoner to be brought before him and to discharge him from custody.

At the hearing of the Milligan petition, the United States being represented by its District Attorney, the judges of the Circuit Court divided in opinion with a view of sending the case at once to the Supreme Court of the United States. The main question of division was, in respect to the jurisdiction of the military court. When the case reached the Supreme Court, Messrs. Joseph E. McDonald, Jeremiah S. Black, James A. Garfield, and David Dudley Field appeared for the petitioner. This was a splendid array of counsel in defense of Magna Charta and its muniments. Attorney-General Speed, ex-Attorney General Stanbery, and Mr. Benjamin F. Butler appeared for the United States. Will it be believed, that in this case of life and death, in which the life and liberty of every American citizen lay trembling in the scale of Justice,—will it be believed, that in such a case the counsel of this great government of the people made a strenuous effort to throw out the petition, on the technical ground that the case was not one within the meaning of the word "cause," in the act of April 29, 1802, which provides for a certification of disagreeing opinions of judges of the Circuit courts, to the Supreme Court of the United States! Will it be credited that the further ground was assumed, that the Supreme Court of the United States should infer that Milligan had already been executed by order of the President of the United States! It now appeared that in May, 1865, the President of the United States had approved the sentence of the military commission, and that the Secretary of War had directed that it should "be carried into execution without delay." This was at the December term, 1865. The war was over, but the principles of liberty remained for inquisition, stern and pitiless. All the light was thrown upon these and other more substantial points by the galaxy of legal luminaries who were engaged in the argumentation. They had in their hands the exhaustive researches of all the learned jurists who had examined the questions of *habeas corpus* and martial law. The elaborate discussions on Mr. Binney's pamphlets were published, as stated, in 1861 and 1862. Never had the question of personal liberty been so thoroughly discussed, from the time of Magna Charta

down. No court had ever before received such aid in its elucidation. What was the result? How could it be otherwise than that at that term Mr. Milligan was ordered to be released from custody? At the following term, Mr. Justice Davis delivered the well matured opinion of the Court. It amply vindicated the conduct of the Democratic members and Senators who throughout the war had denounced the arbitrary acts of the Administration and its supporters, as being subversive of every sacred constitutional right, and destructive of every principle of civil liberty which the state and Federal governments were founded to preserve and maintain. This discussion seemed to add new splendor to the calm and steady effulgence of a court which was constituted to be above the wrangles of faction and the prejudices of party. It revealed a splendor not altogether lost in the contamination of that fallible judicial reason which a decade afterwards gave its sanction to the great outrage of the Electoral Count.

There had been much discussion as to whether the Executive or the Congress had the power to suspend the operation of the writ of *habeas corpus;* but that was a question of little importance while a radical Congress was urging on the Executive to the most ultra acts of despotism. As a constitutional question, it is not yet settled. There have been powerful arguments by great lawyers in support of each side of the question. It is a reasonable inference, that if a time shall ever come again in which the privileges of the writ are suspended, there will be the same partisan accord between the legislative and executive branches of the government, as there was during the past period of war and turmoil. But the decision in the Milligan case has settled, for all time, that neither the President, nor Congress, nor the Judiciary can, rightfully, disturb any one of the safeguards of civil liberty incorporated into the Constitution, except in so far as the power is given to suspend the privilege of *habeas corpus* in time of insurrection or invasion, when the public safety demands that extreme measure. The logic of the decision is, that in such case the parties arrested are to be brought before the civil courts at the earliest moment consistent with the public safety. For, it is only at the seat of war or insurrection that martial law can exist. For, as the court decided: A citizen not connected with the military service, and resident in a state where the courts are open and in the proper exercise of their jurisdiction, cannot, even when the privilege of the writ of *habeas corpus* is suspended, be tried, convicted, or sentenced, otherwise than by the ordinary courts of law. The Supreme Court hold that the constitutional guaranty of trial by jury was intended as well for a state of war as in time of peace, and that it is equally binding on the people and the Federal authorities at all times and under all circumstances. Chief Justice Chase and Associate Justices Wayne, Swayne, and Miller concurred in the decision of the Court. They, however, filed an opinion presenting their view that martial law might, in cases "of justifying peril . . . in

times of insurrection or invasion, or of civil or foreign wars," be called into action by Congress or by the President in recess, when the action of Congress cannot be invited "within districts or localities where ordinary law no longer adequately secures public safety and private rights." But the decision of the Court contains no such doctrine. It is positive in the assertion that martial law cannot exist over the citizen in a state or locality, even in time of war, where the civil courts are open and in the exercise of their jurisdiction.

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In the District of Columbia, in the capital of the country, under the shadow of the Supreme Judiciary, while all the local courts were open, a fearful tragedy was being enacted, a few months after the Supreme Court had discharged Mr. Milligan from the death to which he had been condemned. It will ever remain a dark spot on the fame of the Nation, that this tragedy of martial violence was enacted after every vestige of war and insurrection had disappeared. It is needless to say that it was the execution of Mrs. Surratt, under the judgment of a military commission, and outside of the courts which alone had jurisdiction then and there over life and liberty. Even that incarnate spirit of war and jurisprudence, General Butler, who had so strenuously contended for the legality of martial rule in Indiana in 1864, denounced its operation in the District of Columbia in 1865. "It was," said he, "judicial murder." The members of the military commission that tried the parties charged with complicity in the assassination of President Lincoln, were murderers in the sight of the law! To this crowning infamy did the passions of war and radical hate, and a reckless contempt of the sacred guaranties of the Constitution bring the Nation.

In arguing for the petitioner in *Ex-parte* Milligan, General Garfield, then a Republican member of Congress, said:

"Near the close of the Thirty-eighth Congress, when the miscellaneous appropriation bill, which authorized the disbursement of several millions of dollars for the civil expenditures of the government, was under discussion, the House of Representatives, having observed with alarm the growing tendency to break down the barriers of law, and desiring to protect the rights of citizens as well as to preserve the Union, added to the appropriation bill the following section: 'And be it further enacted, That no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open, except persons actually mustered, or commissioned, or appointed in the military or naval service of the United States, or rebel enemies charged with being spies.'" This section was merely the assertion of the law of the land from the foundation of the Union down. The Senate acknowledged its justice; yet they struck out the section. The bill came back from that body. Important as it was, the bill failed in the House, notwithstanding all the radical efforts

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up to the last moment of the session, to pass it without that section. "The record of its failure," said General Garfield, "is an emphatic declaration that the House of Representatives have never consented to the establishment of any tribunals, except those authorized by the Constitution of the United States and the laws of Congress." But all the same, the sentences of the Washington Military Commission were carried out on the 7th of July following, while the courts were open, and on the day that a judge had returned to him his writ of *habeas corpus* with a denial of its effect.

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During the second session of the Thirty-eighth Congress, the question of military incarcerations came up in various forms. It began with Mr. Ganson, of New-York. He offers a resolution directing the Committee on Military Affairs to examine into the matter, and make a general jail delivery of the Old Capitol and Carroll prisons. This resolution passes without discussion, on the 18th of January, 1865. Its passage is a surprise. At once, Thaddeus Stevens moves to reconsider. A debate springs up. Mr. Ganson gives the instance which provokes his resolutions. The writer, in a speech, asks why the Trumbull law had not been executed, in the Vallandigham and other cases. There are other cases, as he informs the House, in which the Secretary of the Treasury, under some peculiar "higher law" unknown to our statutes, has, for purposes connected with the revenue, or to protect the issue of greenbacks or shinplasters against counterfeiting, caused persons to be arrested by the military power.

"There are now men in the Capitol Prison," said the author, then a debater, "almost within the sound of the voice of at least some of the members of this House, who are kept there month after month on the mere order of the Solicitor of the Treasury, on the charge of forgery. Applications have been made by their friends again and again to have their persons removed to the proper jurisdictions in the states and districts, where the law is unimpeded by the military authority, and yet no attention has been paid to the request. They still remain there. There is a case from my own district of an old man who has been suspected of counterfeiting. He could be released at any moment by the Solicitor of the Treasury. Is there no relief for these abuses? Shall we not be permitted to inquire about them with a view to future legislation?" Other members instance case after case. Then Henry Winter Davis takes the floor. He places the matter on the highest ground. This is his first but not his last protest. He demands that the committee should examine the facts and spread them before the American people, and then let them say whether there exists any law upon the statute-book of the United States that authorizes the confinement of any American citizen not in the military service, in a loyal state, upon the judgment of a military commission, or, without judicial sanction, at the pleasure of subordinate officers of the government, or even by the order of the President of the United States.

This is bold ground. It is worthy of the parliamentary heroism in the time of the Stuarts and their prerogative. It is audacious, especially for a member of the dominant and arrogant party. General Garfield raises his voice also in indignant remonstrance. He, too, is hailed as the friend of civil liberty. It is vindicated by nearly a unanimous vote — 136 to 5. The debate on this theme took a more significant shape at the ending of the session. Henry Winter Davis rose again to the height of a grand argument in favor of "the right of every citizen to his personal liberty." It was he who offered the section cited by Mr. Garfield in the Milligan case as an amendment declaratory of our Bill of Rights. He held that on it depended the very endurance of republican institutions. When the bill came back from the Senate without that section, he said that no money should be appropriated with his consent, as the expense of so grave a reflection upon the fundamental principles of the government. This was the climax of a long debate. It happened not a half-hour before the death of that Congress. The wildest passions were rife. The bill failed. Henry Winter Davis scorned to yield, even for the passage of some charities in it. "I am determined," said he, "that not one item of this bill shall pass without the whole of it." He reaffirmed the facts herein stated. The bill had been passed, as he showed, to stop these outrageous arrests. To use his own trope,—he would allow the bill to stand in the records like a broken dike, in the midst of the rising flood of lawless power. It would show to future generations how high the flood of lawless power had risen in only three years of civil war. It was an awakening to those who were then with us. Now, exclaimed this gifted Maryland orator,— who reproduced the elegance of Pinckney, with the cogency of Wirt: "The conference committee on the part of the House have come to the determination, so far as the constitutional privileges and prerogatives of this House will enable them to accomplish the result, that this bill shall not become a law if these words do not stand as part of it — the affirmation by the representatives of the states and of the people of the inalienable birthright of every American citizen; and on that question they appeal from the judgment of the Senate to the judgment of the American people." Amidst the wildest applause, the three years of arbitrary arrogance and flagrant violation of our Magna Charta was buried beneath the reprobation and scorn of the American House of Representatives! What a triumph an earnest, liberty-loving minority may achieve, if bravely led and inspired with a profound and intelligent love of liberty. A dwarf behind an engine may remove mountains. The closing hours of the last Congress of the war lifted aloft a standard, with a legend worthy of the great liberators of mankind who have contended for human rights established by written codes. Many hundred years ago, the Goths brought their *fueros*, or bills of right, from the cold forests of the North to the sunny plains and rugged mountains of the old granary of the Roman world, Algiers. The spirit of Tell and

Liberty still remains as a monument through a thousand of years of Swiss republican existence. The Sierras of Spain still echo the words of the patriot Riego. His hymn is the Marseillaise of the Peninsula. After he was hunted, long after he had saved constitutional liberty and favored amnesty for all, — he gave to the world the noblest exemplar of patriotism since the days of Brutus.

The traveler sometimes visits an island meadow in the River Thames, near Windsor, now used as a race course. It is known as Runnymede. The traveler does not go there to see the racing, but because that meadow marks an era in the progress of human freedom. There, 666 years ago, on the morning of the 12th of August, the iron-clad barons met King John. They wrested from him the same rights which were violated by the Federal Administration and ostracized by the Indemnity bill of Congress. These rights were written in the Latin of that day, "*Nullus liber homo capiatur.*" Dead language, but vital with liberty — words which Chatham said were worth all the classics: "No free man shall be arrested or imprisoned or deprived of his own free household, or of his liberties, or of his own free customs, or outlawed, or banished, or injured in any manner, nor will we pass sentence upon him, nor send trial upon him, unless by the legal judgment of his peers or by the law of the land." This was the germ of our civil freedom, which men in the passions of war endeavored to uproot after it had grown from the acorn to the oak! Judge Thomas, of Massachusetts, who was a member of the preceding Congress, finely expressed it by another trope: "From the gray of that morning streamed the rays, which, uplifting with the hours, coursing with the years, and keeping pace with the centuries, have encircled the whole earth with the glorious light of English liberty — the liberty for which our fathers planted these commonwealths in the wilderness; for which they went through the baptism of blood and fire in the Revolution; which they imbedded and hoped to make immortal in the Constitution; without which the Constitution would not be worth the parchment upon which it was written." As if to make the Great Charter sacred forever in the Anglo-Saxon memory, to connect it with the holiest emotions of religion, and to sanction it by the hopes and the terrors of the unseen world, the Catholic hierarchy of that day — long before Protestantism arose, before the Reformation, before we had the transcendental light of our Puritan preachers — the English Catholic hierarchy, then the champions of the oppressed and the people, were convoked a few days after the unwilling king signed the charter. Picture that great convocation! It meets in Westminster Abbey, the mausoleum of the dead royalty and genius of Britain. Here is the king upon his throne, sceptred and crowned, impurpled in his robes of office; near him are the lords temporal in their scarlet gowns; on his right are the gentlemen of England representing the Commons, the people of the realm; and within the altar are the lords spiritual, clad in all the pomp of their pon-

tifical apparel! In the midst stands Stephen Langton, Archbishop of Canterbury, the primate of England. The great organ rolls its music amidst the Gothic arches; the air, suffused with a dim religious light from the stained windows, trembles with the thrill of "symphony divine," and the choir sing *Te Deum laudamus*—praise to God for the great charter of human freedom! Censers swing and the incense wreathes up an offering to the God of justice! And in that impressive presence the Archbishop arises, and gathering upon his brow and in his voice the terrors of the invisible and eternal world, he sequesters and excludes, and from the body of our Lord Jesus Christ, from the company of the saints in heaven and the good on earth, he forever excommunicates and accurses every one who would dare to violate that great charter of Anglo-Saxon freedom! These curses were living when the popular branch of Congress rose above all debasing thought to listen to the teachings of Henry Winter Davis, soon to be followed by the judicial decisions of his cousin, Judge David Davis, upon the same inspiring theme. That House of Representatives deserves to be honored ever for placing on high the rights of the people as eternized in our traditions, our history, and our Constitution. But the people of this country are ever meeting as of old, not in any Gothic minster, not in the presence of the hierarchs, not with ceremony of Church and State, not to the music of organ and choir or the rising incense of praise, not amidst the fulminations of primates, but under the great sky of heaven, from the Atlantic to the Mississippi; and they, too, are sequestering and excluding, excommunicating and accursing from the company of the good and patriotic everywhere, all the minions of power who dared in this age and land, and in the midst of the terrible passions of war, to violate the sacred rights of personal and constitutional liberty.

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Is there any incident connected with these events in relation to personal freedom touching the author? There is none so significant to him and his, as the fact that he was compelled, in the city of Columbus and in the state of his birth, to keep at his bedside, a rope connected with a bell to warn the population—who were averse to a repetition of the Vallandigham outrage—of any arrest upon the person of their elected Representative. The city of Columbus never lost either its loyalty to law or its love of liberty. It was only when a vindictive legislature gerrymandered that district, that the author went to New-York. There he has been clinging to the horns of the Democratic altar. How abundantly grateful to his heart was and is the opulency of his reception in that city of Democracy.

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It is but a fitting close of this question of personal liberty and all that it contains for the reader, that it should mark the beginning of a new decade in our policy or polity. It is due to the memory of Henry Winter Davis that the new generation should know and appreciate the courageous patriotism and the intellectual stamina of that most gifted orator.

Henry Winter Davis was the son of a Protestant Episcopal minister. He was born at Annapolis, where his father was president of a college and rector of a parish. In early times the father had much prejudice against Democrats, and early taught his son to "beware of the follies of Jacksonism." When the war for the Union came on, the son had forgotten such a peculiar teaching, for if there was one thing connected with the service of General Jackson more manifest than another, it was his attachment to the Union. Henry Winter Davis graduated at Kenyon College, Ohio, in 1833, during the presidency of Bishop McIlvaine. He was a successful and laborious scholar, and a rare debater in the conflicts of the societies. He, no doubt, learned his power of analysis and his graces of expression through such exercises. He returned to his native State of Maryland thoroughly accomplished in all that equips for free, profound, and legal investigation. Those who remember Mr. Davis can recall a certain boyishness in his manner and figure. This wore off the moment he began to speak. In the writer's opinion he was the best orator in, every sense of the word, whom he has ever heard in Congress. He had logic, but it was logic set on fire of rhetoric. The writer never heard him upon the hustings, but his reputation as an out-door orator is said to have been equal to that which he gained in the forum. He stood high professionally, socially, and politically. He was the idol of the young lawyers of Baltimore. He always had a chosen circle from the time of his election to the Thirty-first Congress until his death. After the adjournment of the Thirty-eighth Congress he was engrossed by the momentous questions which were urged for adjustment. He was among the first to consider the great necessity of reconstruction. He was in the Thirty-ninth Congress, and although heartily received by his colleagues and comrades, he did not long remain with them. He died in his forty-ninth year. The writer served with him upon the Foreign Affairs committee, and without collision as to questions connected with the war and international law. He is especially proud to make this memorial tribute to Mr. Davis, because as the war was winding up and personal liberty became almost as indispensable to our country and its institutions as the Federal Union itself, it was Henry Winter Davis who rose to the front rank of debate, and by his silvery style and cogent logic held Congress almost enthralled until something was accorded to the dignity of personal and public liberty which had been invaded by the excesses of the war.

This Maryland statesman passed through many dark days, not only for his state but for the country. He was ever for the unconditional maintenance of the Union, and though once defeated by Henry May, a Union conservative of great oratorical skill and fervor, he did not remain in the rear, but still pushed to the front. As he once said in a speech at Brooklyn: "You see the conflagration from a distance. It blisters me at my side. You can survive the integrity of the Nation. We in Maryland would live on the side of

a gulf perpetually tending to plunge into its depths. It is for you life and liberty. It is for you greatness of strength and prosperity." What he did in Maryland has been well remembered by his compatriots. He is also remembered for his austerely energetic yet elegant style. It is said that he had no humor. But humor is nearly allied to wit and sarcasm. It is confessed he had much of the latter, but it was frequently blended, as the writer has seen, with great good temper. In some of his speeches, especially those in the midst of the war, he made others sympathetic with his own heroic resolve. In one of them he eloquently said: "If we fall with honor, we transmit the liberty committed to our keeping untarnished to go down to future generations. If we must fall, let our last hours be stained by no weakness, let the ruins of the Republic remain to testify to the latest generations our greatness and our heroism, and let Liberty, crownless and childless, sit upon these ruins crying aloud in a sad way to the nations of the world, 'I once brought up children and they have rebelled against me.'" Some of his conspicuous efforts were connected with the reconstruction of the states, beginning with Tennessee. Why he failed to produce the desired effect, was owing perhaps to a lack of moderation in temper and to an enthusiasm which had been generated in contending so closely in a border state with those who opposed him.

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To offer the olive-branch of peace on honorable terms to our Southern brothers was regarded as treason by the radical leaders. Yet at any time the pen of fraternal compromise would have been more powerful than the sword of war in restoring the old harmony between the sections. All the lessons of history were ignored. Even from Ireland, with her many rebellions and much suffering, the Muse of History pointed with menacing finger to the result of the policies of subjugation. What a picture then for observation! There stood Ireland in chains, fettered to the land of Magna Charta which boasted of *habeas corpus* and civil liberty! A conspiracy here, a plot there, a rebellion at the capital, a rising at the extremities, public waste, private impoverishment, general corruption, periodical starvation, political turpitude, and national bankruptcy — these were the features of national thraldom which Ireland presented for our warning, when men talked so glibly of subjugation and confiscation. How much better would it have been for all countries, had the sagacious advice of Sydney Smith been followed, when he said:

"How easy it is to shed human blood; how easy it is to persuade ourselves that it is our duty to do so, and that the decision has cost us a severe struggle; how much, in all ages, have wounds, and shrieks, and tears been the cheap and vulgar resources of the rulers of mankind. The vigor I love consists in finding out wherein subjects are aggrieved, in relieving them, in studying the temper and genius of a people, in consulting their prejudices, in selecting proper persons to lead and manage them in the laborious,

watchful, and difficult task of increasing public happiness by allaying each particular discontent."

When would the olive-branch be offered the South? Not until the last armed foe expires, say the Republicans. They who hoped for terms must wait in vain; for the passions of man were aroused in the radical breast, bidding defiance to every element of law, every guarantee of freedom, and every sentiment of clemency and brotherhood. Under such a condition, could men of American mould stop the conflict while there was any power left in the South to muster a battalion or fire a round of canister? Was it any wonder that these men,—with famine in the camps, barefooted and in rags, with munitions of war all exhausted and nothing left but their valor and despair,—held at bay, for a year almost, the first captain of the age and the grandest army that was ever mustered on the face of the earth? No less loyal a hand than that of General Garfield himself has written in imperishable letters, on the annals of the Nation, these words which will go down to all time as a memorial of American patriotism and brotherhood: "The soldiers of the two armies, if left to themselves, would at any time have come to a peaceful settlement of the war in half an hour!" What was this but an admission that the soldiers of the Union army were at all times fighting under the original pledge, which gave Democratic enthusiasm to this cause —that the war was for the Union, and not for any fanatical scheme or issue?

It was well said in the burning eloquence and patriotism of Mr. Voorhees in his speech on the state of the Union, in March, 1864,—that the baleful band of political destructionists who then unhappily possessed the high seats of national authority, did not want peace. "No," said he, "they invoked the storm which had rained blood upon the land. They courted the whirlwind. They danced with hellish glee around the bubbling caldron of civil war. They welcomed with ferocious joy every hurtful mischief which flickered in its lurid and infernal flame. Compromise, which had its origin in the love and mercy of God; which made peace and ratified the treaty on Calvary between Heaven and the revolted and rebellious earth;— compromise, which is the fundamental basis upon which all human associations have been created and upheld, was then pronounced a treasonable word and covered with reproach by skillful knaves intent on enriching themselves at the expense of national sorrow and blood,— that compromise which would have restored peace and fraternity to the distracted land, and spared the desolation of bereavement and death to a million firesides, was rejected by the arch-traitors of abolitionism." There were then "patriots" in plenty who denounced Mr. Voorhees as a traitor and a copperhead for such utterances. But not all the bastiles that were ever built could restrain the proud spirits of such men as Voorhees and Vallandigham, and their Democratic confréres. These men loyally sustained our armies in the field in order to conquer a peace, while they hesitated not to assault the satrap Secretary of War, when ten thousand of his armed guards were ever ready to execute his most ferocious orders.

Did the contest for civil liberty end with the war? No. Far from that. When secession died, as it did in the last ditch, then it was that the malign spirit which had hovered in the rear of the conflict came to the front to gloat over the prostrate Southern land. The gray picket was no longer at his post to challenge the spirit of hate and eternal discord. No right was now to be known but that of conquest and spoliation. Now, indeed, had the fruit of victory turned into the dust of Sodom. The Union was at last rent in twain! What neither secession nor war to the last could do, was now done by act of Congress, and radical hate. A new Executive had come with a very small olive-branch in his hand. What cared the victorious conspirators for that? They spat upon it with contempt. They impeached him for that small tender. What cared they now for executive clemency? What cared they for Constitution guaranties or Supreme Court decisions? They would have no peace in the South land. They would have no law but martial law in the "conquered provinces," until they could lay broad and deep in Southern soil, the foundations of a party structure that neither time nor the American people could ever overthrow! Here, in the opening year of the second decade of this history, began the second contest to save the Union; a contest no less pregnant with the fate of American institutions than the first, and no less bitterly fought; a contest which was not finally settled until the very last year of Republican sway. It took almost a quarter of a century to silence the guns of Moultrie and Sumter!

At last, a measure of content comes upon the despoiled and prostrate South. The party of constitutional liberty, state fealty, and Federal unity has succeeded, and the prophecy has been realized, for the old standard has again been high advanced: "Good tidings shall bind up the broken-hearted, and to them that mourn in Zion, give unto them beauty for ashes, the oil of joy for mourning, and the garment of praise for the spirit of heaviness. . . . And they shall build the old wastes, they shall raise up the former desolations, . . . as the earth bringeth forth her bud, and the garden causeth things that are sown in it to spring forth." "Go through, go through the gates, prepare ye the way of the PEOPLE; cast up, cast up the highway; lift up a standard for the PEOPLE!"

CHAPTER XII.

PROSCRIPTION OF PERSONS AND PROPERTY.

LEGISLATIVE AND EXECUTIVE MODES — NON-INTERCOURSE — THEORY AND PRACTICE — WAS SECESSION WAR OR NOT — IT WAS A PRACTICAL FACT — DILEMMA AS TO "PIRATES" AND PRISONERS OF WAR — LINCOLN'S SOLUTION — ANOMALOUS RIGORS, NORTH AND SOUTH — HIGHER LAW NEWLY APPLIED — ÆSOP'S SATYR — AFTER THE WAR — FOLLY OF NON-ACTION SOUTH — TWO DECADES OF TROUBLE MIGHT HAVE BEEN AVERTED — RADICAL PROSCRIPTIONS UNCONSTITUTIONAL — RATIFICATION OF AMENDMENTS — CONFISCATION ACTS — ATTAINDER AND *EX POST FACTO* LAWS — BELLIGERENT STATUS VIOLATED — TEST OATHS — LOYALTY — CUMMINGS AND PERMOLI CASES — *IN RE* GARLAND — JUSTICE FIELD'S DECISIONS — FOURTEENTH AMENDMENT — A BILL OF ATTAINDER — ITS MONSTROSITY — FORCE BILL AND ITS FATE — LIBERTY ECLIPSED — TEST OATH REPEALED IN 1884 — RAPINE BY LAW — DEMOCRATIC PROTESTS AGAINST OSTRACISM AND TYRANNY.

WHEN it was finally determined that no compromise would be offered to the South by the Republican party without an absolute waiver of all the questions affecting slavery, there was no mode left for the settlement of the issue of secession, other than that by force of arms. True, Mr. Lincoln issued, from time to time, his proclamations to the South; but these were always read by the people to whom they were addressed, in the light of past experience. Mr. Lincoln did not, and could not for his party, give any assurance that the grievances of which the South complained would be remedied by submission to Federal authority. Seeing that the idea of compromise was rejected with contempt, the Confederates at once organized a *de facto* government. That government was republican in form. It had its constitution, and its three departments of authority — the legislative, the executive, and judicial. Armies were put in the field and a naval force was created to maintain the independence declared by the Southern States. In this condition of affairs, the President of the United States, on April 15, 1861, issues a proclamation to the

states of the Union. It calls for seventy-five thousand of the militia to aid the army and navy in an effort to re-possess the forts and arsenals which had been seized by the Confederate forces, and otherwise to compel submission to the general government. To this the Provisional Congress of the Confederacy responds on May 6, 1861. It passes "An act recognizing the existence of war between the United States and the Confederate States, and concerning Letters of Marque, Prizes, and Prize Goods." This act prescribes rules for the conduct of the war, according to the mode of independent belligerent powers. Shortly afterward, on the 13th of the same month, a state of war is recognized by Her Britannic Majesty's government as existing between the *de facto* Confederacy and the United States. France and the other powers of Europe follow the same course without delay. The Federal Government protests against this foreign recognition. It denies the right of a foreign power to take cognizance of any local or sectional disputes in this country. It denies that there is a state of war within the nation. It asserts that the existing trouble is of a temporary nature, and that the great mass of the Southern people will not give their support to an outbreak that must soon be suppressed by the Federal Government. The immediate cause, or excuse, for foreign recognition of the Confederacy is the proclamation of President Lincoln, issued on the 10th of April, 1861, declaring a "blockade" of the ports in certain of the seceded states, in pursuance of the "law of nations" and "the statutes of the United States" in such case made and provided. Persons acting under the authority of the Confederacy who molest any United States vessel are to be treated as "pirates."

On the 16th of August, 1861, in pursuance of an act of Congress recently passed, President Lincoln issued another proclamation, declaring the inhabitants of the eleven seceding states (except those of West Virginia) to be in a state of insurrection against the United States. It forbade the citizens of other states from holding any commercial intercourse with them. Other executive proclamations and acts of Congress followed. Each of them characterized the Confederacy as a pretended government, and the support given to it as an insurrection or rebellion against the only government, *de facto* or *de jure*, within the constitutional limits of the United States. Never once in diplomatic correspondence, or in proclamations, or act of Congress, did the Federal Government directly admit the existence of a state of war in the South. It was in practice only, that war was recognized as existing. The government was compelled by force of circumstances to treat with the Confederacy as a belligerent power. And because of the ability of that power to maintain what is called a war, the Federal Government, both from policy and humanity, was compelled to suppress the "insurrection" or "rebellion," according to the modes of war. A pertinent illustration of this dilemma occurs to the author. In the progress of events, and before practice had regulated the theory, some sailors in the Confederate service were captured. They were not treated

as prisoners of war. They were sent to Philadelphia. They were indicted as pirates by a United States Court grand jury. They were tried and convicted as felons, for acts of piracy and murder upon the high seas. The Confederate authorities retaliated. Colonel Corcoran and two other Federal military officers of equal rank had been captured at Bull Run. They were at once treated to a like imprisonment, if not worse. They were held as hostages, to be hanged, in case the Confederate seamen were hanged. This painful predicament alarmed their friends and fellow-compatriots. It led the author to introduce and have passed, at the second session of the Thirty-seventh Congress, his resolution for the exchange of prisoners.

In this dilemma, the friends of the imperiled Union soldiers visited Washington. They brought to the President an able presentation of the case from the gifted pen of Charles P. Daly, Chief Justice of the Common Pleas of New-York City. Richard O'Gorman, the distinguished jurist and orator, now upon the bench of that city, was its custodian and interpreter. He called upon the writer to present him and his address to President Lincoln. The writer was then a Representative from Ohio; but through many kindly offices from the President, he was regarded as being specially devoted to the exchange of prisoners so as to mitigate the severities of a war which could not then be stopped. After hearing the matter, the President reserved his decision, but requested the writer to call again. He did call the next day, when a happy thought seemed to end the controversy. It was developed out of the Socratic method of argument.

The author here presents his interrogatories and the responses: "Mr. President, you are endeavoring to put down this insurgent force by force?" "Yes." "You desire to keep alive the patriotic sentiment?" "Yes." "The Irish are a martial race. The Sixty-ninth are Irish. Colonel Corcoran is their favorite. Will you discourage them?" "No." "Will not this threat of retaliation and hanging rob the service of some of its best soldiers, and detract from its gallantry and *esprit?*" "Yes." "Well, then, Mr. President, if much good and no harm results from relieving our Union officers in durance, South, why not exercise your prerogative?" "Ah! there it is," said the President, "you would have me recognize these pirates as belligerents. Remember that to fight on land is one thing, but on an unstable element like the sea, where men are isolated and helpless, is another." This was, then, the sum of the reasoning against an exchange of prisoners. It had in it no element of humanity or international law. The writer then put one more question: "What is the difference between firing a shot at yonder flag (pointing out of the White House window to the flag flying from one of the forts on the Virginia hills) from Ball's Cross Roads, where you can almost see the 'stars and bars,' and firing a shot at the same sacred emblem from under the same 'star and bar' bunting upon the mobile element? Are not both shots intended to take the life of the Union? Where is the difference in intent and

conduct? Does the difference consist in one being fired on the soil and the other on the sea? Is it one thing from yonder red banks and another from the blue sea?" The President quizzically pondered a moment over the *ad absurdum*, and then admitted that there was no substantial difference. He promised relief. It came. Secretary Seward ordered an exchange of the so-called pirates as prisoners of war.

All the heated discussions in Congress and in the press of the country in respect to the course which should be pursued in restoring the Federal relations to all parts of the Union had their source in this anomalous condition. Both Democrats and Republicans agreed that while secession was a fact, its theory was not to be admitted. They further agreed, while secession was a potential fact, that whether admitted or not to the outside world, the United States had become bound to treat the people of the South who were resisting the Federal laws and armies, not as "rebels" and "traitors," but as belligerents. Their belligerent status was irrevocably admitted in the capitulation of the armies of Lee and Johnston. Early in the contest, it became the doctrine of the courts that the Confederacy was a belligerent power, and they applied the principles of the law of nations in the elucidation of all questions arising out of that state of belligerency. After the surrender of these armies, it was claimed by those who desired to treat the late belligerents as a conquered people, that "The law of nations is above the Constitution." It was meant by this, that certain acts of Congress passed during the existence of the Southern Confederacy and the period of reconstruction, and other executive acts, which were contrary to the spirit and letter of the Constitution, were in fact valid because of that "higher law,"—the law of nations.

While it is admitted that the law of nations is a part of our judicial system, it has never been regarded by any American jurist as being above the Constitution. We may except, perhaps, some of the extremists whose judgment was warped by passion and partisanship. It is certain that the law of nations has no force against those principles of our organic law which define the powers and duties of the general government in its relations with the states and the people of the Union. This is the doctrine that Mr. Seward stated to the powers which recognized the Confederacy. He protested against recognition on the ground of international law. It is the very corner-stone of all the proclaimed policy of Mr. Lincoln in regard to secession and its consequences. It is the doctrine which the Democratic party asserted and acted upon, from the first to the last, in the great ordeal through which the nation passed. Mr. Reverdy Johnson gave it elaboration and eloquence in his debate with Senator Howe and other Senators on the reconstruction policy, to which allusion is made in subsequent chapters. He said that the armed resistance in the South was a rebellion or insurrection fully provided for in the Constitution. It might be called war by international law, but

not by constitutional law. True, the logical technical result would be, as Mr. Johnson admitted, that those who aided the Confederacy had violated the laws of their country and were subject to its penalties.

The infliction of severe penalties was the very thing most desired by the radical party. They had, however, a method in their passion. Revenge was sweet, but political ascendency and the power it confers, was far sweeter. Besides this, would it be possible to inflict the penalties of the law on a whole people who had violated the law? Could a criminal intent be attributed to the whole people of a state or of a confederacy? Ought the era of barbarism to be permitted to come back with its cruelties and rigors? There was no disposition on the part of the people who suppressed secession to execute the rigors of the law. Nor would it be sound policy to attempt it. Every instinct of common blood would be in revolt against it. Our concession of belligerent rights to the South was in itself a waiver of the right to prosecute our Southern brethren for their belligerent acts. It would have been simply atrocious, under such circumstances, and after peace was restored, to carry on a system of proscription in the courts, even though it were possible to find judges and juries so depraved as to become its instruments. But by no other mode than this could any citizen, while subject to the jurisdiction of the United States, be deprived of the rights pertaining to citizenship. The war was prosecuted by the United States on the theory that every man, woman, and child in the seceded states owed allegiance to the Federal Constitution and Government. No other theory was at any time admitted in the North. The people of this section would at no time admit that the mode adopted to enforce Federal jurisdiction — the mode of war — estopped them from asserting the unity of the Nation with all its incidents of power. Hence, it logically and constitutionally follows, that no citizen could lawfully be estopped in the defense of his rights as a citizen, on the ground that he had repudiated the government that was created to maintain its sovereignty over him. He could not "attorn" his Federal allegiance.

Here was a predicament for the party of reconstruction. Its shrewd leaders foresaw it early in the conflict. The very men who most bitterly opposed the exchange of prisoners, lest it might be regarded as a recognition of a belligerent power in the South, were the most positive in asserting, after that power had ceased to exist, that in fact and in law it had existed. According to the doctrine of the radical apostles, the Union was abolished. Eleven of its states had in fact, and according to the "higher law," established an independent government, with which the other fragmentary government of the late Union was at war until it came out victorious. *Væ victis!* they cried. The South was now at the mercy of the party of conquest. It must be governed as a recently acquired province. No, not even that, for a conquered country is allowed to retain its own domestic institutions, when it gives its fealty to the conqueror. The Republican party must be allowed to act in

the inconsistent manner that elicited the contempt of that fabulous monster — Æsop's Satyr. It must be allowed to blow hot and cold out of the same mouth. It must, for the purpose of securing party ascendency in the future, be allowed to establish the principle that states can secede from the Union; and that when they do secede, they are in the Union and out of the Union — subject to the Constitution and not subject to the Constitution — whenever it suits the party in power so to assert. When the Republican party chose to do such a trifling act as to enforce the adoption of amendments to the Constitution, then there had been no secession. No state had escaped from its Federal relations. The Union had not been destroyed. But when it came to the serious matter of electing some village constable, or the mayor of a city, or a judge, or a legislator, or a Senator or Representative to the Congress, then, behold! — all was changed. The South immediately became a conquered province. The Democratic party had no disposition to practice such political legerdemain. Its doctrine involved neither tyranny nor trickery. Nothing but successful revolution could take a state out of the Union. Eleven states had made the attempt. The attempt failed. Therefore, the Union, with all its divisions and subdivisions of power, remained unimpaired and perfect. There could be no proscription of secessionists, except in the courts by a verdict of their peers and judicial sentence. In this mode only, could any citizen who made war against the government, or any citizen who aided, abetted, or sympathized with those who were in armed hostility to the government be deprived of any right. Such proscription was both impossible and impolitic. It would have been disgraceful to humanity, and destructive of the harmony and fellowship that every true patriot desired. The Democratic party was performing a high duty when it opposed all other modes of proscription in the South.

These strictures upon the Republican policy apply with equal force to the extreme secession party in the South. The latter had adopted a constitution substantially like the one which they tried to ignore. The measures they adopted for carrying on the war for secession were as contrary to the principles of their new organic law as to those of the national Constitution. In the South, banishment, ostracism, perpetual sequestration of estates, and confiscations — all were enacted by the Confederate Congress within six months after the breaking out of hostilities. Loyalty to the Union was by law and proclamation made treason to the Confederacy. All male citizens of the age of fourteen, not being citizens of one of the seceding states, or of certain named slave states and territories which had not yet seceded, and who remained loyal to the Union, were regarded as alien enemies. They were to be treated as such. They were commanded to depart from the Confederacy within forty days. If they did not do so, they could be arrested on the complaint of any person. They could be brought before the criminal courts for trial and sentence of banishment. The marshals were specially

charged with the duty of enforcing this ostracism. The warrant of the President of the Confederacy, or of any criminal court or judge, was sufficient authority for the marshals in the enforcement of such banishments. The sequestration acts were simply barbarous. All rights and interests in lands, tenements, and hereditaments, goods and chattels, and all credits possessed or enjoyed by the citizens of the United States who refused to adhere to the Confederacy, were sequestered on the 21st of May, 1861. Every citizen of the Confederacy was made an informer on his Union neighbors. All citizens were required to give information to the officers charged with the duty of enforcing the sequestration acts. Attorneys, agents, business partners, trustees, and others having property in a fiduciary capacity, who failed to give information touching property or credits subject to sequestration, were liable to indictment as for a high misdemeanor, and to be fined and imprisoned on conviction. Besides this, they were subject to a suit by the Confederate States for the recovery of double the value of the estate, property, or effects of the enemy subject to their control, and of which information had not been given. Every arbitrary act of the government of the United States in the suppression of secession had its counterpart, and worse, in the Confederacy. There was the same suspension of *habeas corpus*, the same system of arbitrary arrests and military trials, the same conscription laws. They were all vigorously enforced. No man, however honorable, dared express a word or sentiment that might be construed as being opposed to secession. The civil courts were everywhere as arbitrary in "disloyalty" cases as any military tribunal could possibly be.

Why then, it may be asked, did the Democratic party oppose the like measures in the North? Why, when Union men in the South were treated as alien enemies and traitors? Several answers may be made to this question. The best and last answer is, that on the part of the North the war was intended to be prosecuted not as against alien enemies, but as against revolting citizens whom its people desired to bring back to their proper relations with the government of one common republic, in which every citizen must necessarily enjoy equal rights and privileges. The insurrection was of such vast extent, that the universal amnesty which was implied by the concession of belligerent rights to the South was the only wise and patriotic policy that was left to the general government. The events which followed the close of the war, and the status of the Southern people to-day, give an ample vindication of the Democratic policy.

Weighing the conduct of the Confederate government in the scales of impartial judgment, it will be found that in the South there was some justification for severe measures. In the North there was not a handful of men, outside the ranks of the violent abolitionists, who desired the disruption of the Union. The ordinary legal remedies of long existing laws were ample in the North for the restraint and punishment of persons who might give

aid and comfort and to those who were in armed hostility to the Union. It was far otherwise in the South. In every county of that section there was, either dormant or active, a strong Union sentiment. Those who wanted to destroy the Union had, of course, no desire, and no expectation of ever again acknowledging the Federal Government as their own government. Unlike the Democratic party of the North, they did not look forward to a common citizenship and federation of reunited states and people. Hence, in their condition and temper, the most extreme measures for the support of their cause would seem right, when deemed necessary. If the Southern supporters of secession were blinded by passion and reckless of consequences, there was all the more reason for moderation and broad generosity at the North, if the constitutional government was to endure.

These considerations had no weight in the dominant faction of the Republican party. In the first attempt to restore Federal authority over the South after hostilities had ceased, the strength of that faction was greatly augmented by the insanity and folly of a large portion of the Southern people, who, instead of accepting the results of the war as inevitable, took pride in the assertion that the South had been "conquered," and that they themselves were "aliens." They took pride in admitting that they were in the very situation that the radical reconstructionists had pronounced them to be, namely, that they were the conquered people of conquered provinces. They disdainfully abstained from taking any part in the work of rehabilitation. There was some sentimentality in this course, but at the same time there was certainly a great absence of wisdom. What if the leaders of secession had been disfranchised by unconstitutional acts of Congress and invalid proclamations, — had not amnesty been extended to the great mass of the people who had participated in the war for secession? At most the proscriptions would be but temporary. When the true fraternal spirit of the fathers would again animate the re-united states and people of the Union, all proscriptions and sectional animosities would be buried in the grave of the past.

When the war closed there was but one Union party in the country. This was the Democratic party of the North. Had its policy then prevailed, sectional discord would soon have disappeared; the peace of 1885 would have been ante-dated twenty years. There would have been the same constitutional abolishment of slavery; for the Democratic party was in no mood to offer it any resistance. There would have been a better, because a voluntary extension of the political franchise. For, as often asserted by such a champion of slavery as Mr. Calhoun, that was one of the inevitable and logical consequences of emancipation. The suffrage would have been gradually extended.

The writer has asserted that the radical proscriptions of the Southern people were in violation of the Constitution. This can be demonstrated.

It is a fundamental principle that the Constitution is co-extensive with the Union for which it was ordained. It may be amended, but only in the mode prescribed in the fifth article of that instrument. This has been expressly admitted by those who asserted that the seceding states were outside of the ægis of the Constitution; and that they were not states of the Union after they had resisted Federal authority, nor for some years after peace had been proclaimed. If the latter had been true, there would be no validity in the Thirteenth Amendment which abolished slavery. It did not receive ratification by three-fourths of the states, if Virginia, Arkansas, South Carolina, North Carolina, Alabama, and Georgia were not states of the Union on Feb. 1, 1865, when it was proposed, or on Dec. 18, 1865, when the Secretary of State proclaimed that it had been submitted to the thirty-six states of the Union, and that only twenty-seven of them — including those named — had ratified it.

This exhibition refutes the disunion theory, that the seceding states were out of the Union, and that their people had no constitutional rights. Yet it was on this disunion theory that all the proscriptive measures of the war and reconstruction were based. The confiscation acts of the Thirty-seventh Congress, and certain other acts, were in effect bills of attainder as the term is understood in the Constitution. The radicals sought by these acts, to impose pains and penalties on certain classes of the people of the South without previous ascertainment of criminal guilt in the judicial courts. But the citizen cannot be deprived of any right by act of Congress. The confiscation acts were passed for the punishment of persons who levied war against the government, that is to say, persons who bore arms against the United States, or who aided and abetted the insurrection. This punishment could not be inflicted except by proper judicial proceedings. There must first be a criminal conviction as a foundation for confiscation. It is like the case of an *ex post facto* law, wherein, as the Supreme Court said in the case of Cummings *vs.* the State of Missouri, the Constitution cannot be evaded by giving a civil form to that which is in substance criminal.

There was all the disposition on the part of the extremists who made and directed the policy of the government during the war and reconstruction periods, to prosecute every person in the South who had taken a prominent part in secession. But our judicial system was so hedged in by constitutional safeguards that this was impossible. The utmost extent of their vindictive policy was confined to the seizure of property, and to proceedings *in rem* for its condemnation. They were, in a measure, successful in this, under acts of Congress defining jurisdiction and making harsh rules of evidence. It was only by such proceedings — which required no jury — that there could be any plausible mode of evading the constitutional guaranties, and violating the amnesty which was implied by the belligerent status of the North and South, in the war for the Union on one side and secession

on the other. The code of war rather than the principles of peace, was invoked for the support of all unconstitutional legislation and conduct. The "war powers of the government" were constantly appealed to, instead of the Constitution. Where the latter would restrain extreme measures, the *jus bellum* would give sanction. And all this was done to restore the Union! — to reunite the sections in harmony!

But the most far-reaching measures were the disqualifications and disfranchisements which were enacted and proclaimed against erring brethren. Was there any utility or sound policy in such an ultra proscription as that which required oaths and averments of past loyalty among a people who had made war against the Union, and who were now conscious of their grave error? Was this the way to induce a willing submission, or to bring back the Union? Such a proscription could only be made valid by an abandonment of all regard for the principles and essence of our political system. This proscription denied the only right mode of punishing guilt, and assumed that every person in the South was a criminal. It placed the burden of proof on the defense, instead of on the prosecution. It did this, when there was no guilt at all, — for was not the recognition of a state of war, in itself amnesty? And was not this amnesty confirmed by the Executive proclamations?

The sole object of all the legislative and executive acts looking to the proscription of those who had been defeated in the attempt to secede from the Union, was to secure permanent ascendency to the Republican party. This was to be effected by the aid of the colored voters. Therefore, in the work of rehabilitation in the states, the attempt was made to exclude every white citizen who went into the secession movement, or who sympathized with it. From what has been already said, it will be seen that this attempt was, in its spirit, obnoxious to the objection against attainders. For, was it not the intention to deprive citizens of their rights without judicial decree? Was it not, also, obnoxious to true statesmanship, which is not swayed by prejudices or passions? Illustrative of this vindictive partisan policy, were the constitutions forced upon the states which had either entirely or in part gone into secession. For example, a so-called convention of the people of Missouri assembled at St. Louis, in January, 1865. They met for the purpose of so revising and amending the state constitution, as to secure, for all time, the ascendency of the very small minority party that assumed to govern the state with the aid of Federal bayonets. Among the amendments made, was one which denied the right to vote at any election held by the people to any person who was otherwise qualified to vote, if he had ever been in armed hostility to the United States or to the state government. Any person who had given aid or comfort, countenance or support, to any person engaged on the Southern side in the Civil War was disfranchised. He was disfranchised, if he ever, by "act or word," or "desire," or by "sympathy," sided with the South, or did not at all times desire the defeat of the South. Not

only were the people so disfranchised, but every person who had aided or sympathized with the South was made incapable of holding any office of honor, trust, or profit in the state, under its authority. Nor did the proscription stop there. No such person could be an officer, councilman, director, trustee, or other manager of any public or private corporation. Did the proscription stop there? No; such person would not be allowed to act as a professor or teacher in any educational institution, or in any common or other school; nor be allowed to hold any real estate or other property in trust, for the use of any church, religious society, or congregation.

An "oath of loyalty" was then prescribed. This required the solemn denial of ever having directly or indirectly done any of the acts of disqualification against which the amendment was leveled. Sixty days after this constitution took effect, no person was to be allowed, without first taking this oath, to practice as an attorney or counselor-at-law. Did the proscription stop there? No. After that time no person was to be competent as a bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect, or denomination, to teach or preach, or solemnize marriages, unless he had first taken, subscribed, and filed the said oath. After the expiration of sixty days, whoever should hold or exercise any of the offices, positions, trusts, professions, or functions specified, without having taken the prescribed oath, was made liable, on conviction thereof, to be punished by a fine of not less than five hundred dollars, or by imprisonment for not less than six months in the county jail, or both, at the discretion of the court. The false taking of this oath was made perjury, with the penalty of imprisonment in the penitentiary.

This constitution was submitted to the "loyal" people only. It was ratified the following June. The vote was taken under military supervision. The following September, the Rev. Mr. Cummings, a priest of the Catholic Church and a citizen of the state, was indicted and convicted in the Circuit Court of Pike County. His crime was that of teaching and preaching without having taken the oath referred to. He was sentenced to pay a fine of five hundred dollars, and to be committed to jail until the fine and the costs were paid. On appeal to the Supreme Court of the state, the judgment of the Circuit Court was affirmed. The case was then brought to the Supreme Court of the United States. It was argued for the plaintiff in error, by David Dudley Field, Reverdy Johnson, and Montgomery Blair, and for the state by G. P. Strong and John B. Henderson.

The question presented was, as to whether the sections of the state constitution which contained these proscriptions were or were not, in effect, a bill of attainder. Were they, as such, obnoxious to that clause of the Constitution of the United States which prohibits a state from passing any "bill of attainder," or "*ex post facto* law." In the discussion of this question, the counsel left nothing unsearched or unsaid to maintain their respective sides of it.

It was contended for the state, that in the adoption of this constitution it was exercising its sovereign right to determine the qualification of voters and office-holders, and to prescribe the terms and conditions upon which the people within its jurisdiction should exercise their various pursuits. The state had the right to regulate its own municipal affairs, to prescribe who should vote and hold office, and who should exercise the profession of the law, or form the character of her people by secular or clerical teaching. On the other side, while not denying this doctrine, it was contended that such regulations must not be obnoxious to the supreme law of the land. They were not intended for municipal regulations, but as political proscriptions of the worst form. They were intended to operate as punishments, without judicial trials. They had all the qualities of a bill of attainder, or an *ex post facto* law, and were, therefore, null and void.

No act of tyranny was more detested, from the days of Magna Charta down, than parliamentary or royal attainders. The life, liberty, and property were all forfeited by attainders, without allowing the persons or classes of persons at whom they were leveled, any opportunity to prove their innocence of the offense imputed to them. Our ancestors abhorred such vindictive tyranny. Therefore, in framing our Constitution, they expressly denied the existence of any power, either state or Federal, to pass a bill of attainder, or an *ex post facto* law. All acts for which any person would be liable to be deprived of his life, liberty, or property, must be previously defined by the law. All proceedings against him for the punishment of such acts, must be in the judicial courts, and in due form of law.

In the case of Mr. Cummings, there was mature deliberation among the members of the Supreme Court; but it is to be regretted that there was not a unanimous opinion. Mr. Justice Miller, on behalf of himself and Mr. Chief Justice Chase, Mr. Justice Swayne, and Mr. Justice Davis, delivered a dissenting opinion.

The opinion of the majority of the Court was delivered at the December, 1866, term of the Court, by Mr. Justice Field, with that lucid style and clear grasp of the principles of the law of liberty for which his decisions are distinguished. It was demonstrated and decided that no state could create disqualifications like those in the Missouri constitution, because their effect was to inflict punishment by attainder. There was no evidence that Mr. Cummings had been guilty of any act of disloyalty, or that he had at any time a disloyal thought or sympathy. He was not so charged. He was charged only with having failed to take an oath which, if he had been disloyal, would have made him liable to prosecution for perjury. The nature of the proscriptions were such that no man at whom they were aimed could exercise the rights of a citizen. They made him his own accuser. A refusal to take the oath deprived him of his rights. He was not at liberty to exercise his rights without taking the oath.

The Court, therefore, held that this was a penal restraint of civil liberty. It was, as such, a punishment. It was, to that extent, an attainder. Although this attainder was milder than those in the days of the Plantagenets and Tudors, the constitution which imposed it was a bill of pains and penalties, inasmuch as it deprived Mr. Cummings of the hitherto sacred right to preach the Gospel and teach morality. It had also the character of an *ex post facto* law; it changed the rules of evidence by assuming the guilt instead of the innocence of the people whom it proscribed. There is no practical difference between declaring guilt and requiring a denial of it under oath. In short, the Court held that the prohibitions of the Constitution of the United States against bills of attainder and *ex post facto* laws were intended to secure the people against any punishment or deprivation of rights for past conduct, by retroactive legislation. The people had secured to themselves in this organic law, the right to have all offenses, involving their life, liberty, and property, defined by law and tried in the open courts. They had the right to a trial by an impartial jury. They had a right to be defended by counsel learned in the law; and to be confronted with, and to cross-examine the witnesses brought against them. The government must first submit its proof of guilt before any person, even the humblest citizen, is to be called on to bring in evidence for his defense.

It resulted, in the Rev. Mr. Cummings' case, that the judgment of the Supreme Court of Missouri was reversed. That court was directed to discharge him from his unlawful imprisonment. All the proscriptions of the state constitution were unconstitutional and void.

The dissenting opinion in Mr. Cummings' case was made a part of the dissent in another case at the same December term. This was the case well known as *Ex parte* Garland, of which mention will be made presently. The dissenting judges held that the sections of the state constitution upon which the case rested were not in conflict with the prohibitions against bills of attainder and *ex post facto* laws. That they were qualifying regulations on subjects over which the state had rightful jurisdiction. The oath was not prescribed for a class of the people, but for all classes. No one was compelled to take it. No sentence was pronounced on anybody. The party interested determined his own guilt or innocence and pronounced his own sentence. The reasoning of the dissenters is plausible. But it is not judicial. It does not take judicial notice of the fact that a short time before, there was a civil war in the country, and a state government in Missouri that sided with secession, and that a large portion of the people of the state, perhaps a majority, had been active supporters of the irregular state government. They shut their eyes to the fact that it was on this portion of the people that the amendments of the constitution would operate, so as to render them unable to exercise rights, not only of a political, but also of a civil and individual character. But the minority judges did not base their dissent solely

on constitutional construction. They held that the question did not arise under the Constitution of the United States. It was, in their opinion, a question involving religious liberty. Congress could not make any law respecting the establishment of religion, nor prohibit its free exercise. But no state was so restrained. The case of the Rev. B. Permoli, reported in 3 Howard, Supreme Court reports, was cited. "If," said Mr. Justice Miller, "there ever was a case calling upon this Court to exercise all the power on this subject which properly belongs to them, it was the case of the Rev. B. Permoli." The case referred to was this: By an ordinance of the first municipal district of the city of New Orleans, a penalty was imposed on any priest who should officiate at any funeral, in any other church than the obituary chapel. Mr. Permoli was a Catholic priest. In the execution of his sacred office, he was called upon to perform the funeral services of his church over the body of one of his parishioners, in the Church of St. Augustine. For this violation of the municipal ordinance, he was brought before the court and fined. Conceiving that the Constitution of the United States secured to the people of the states the enjoyment of religious liberty; and that it inhibited the states from imposing any restraint on such liberty, he sued out a writ of error. The case was brought up to the Supreme Court of the United States. The writ was dismissed, for want of jurisdiction. The ordinance complained of was a gross violation of the liberty of free celebration of one of the most sacred rites of the Christian religion, but the Court could give no relief.

Drawing a parallel between the case of Mr. Permoli and that of Mr. Cummings, Mr. Justice Miller, said: "An ordinance of a mere local corporation forbids a priest, loyal to his government, from performing what he believed to be the necessary rites of his church over the body of his departed friend. This Court said it could give him no relief.

"In this case [Mr. Cummings'] the constitution of the State of Missouri, the fundamental law of the people of that state, adopted by their popular vote, declares that no priest of any church shall exercise his ministerial functions, unless he shows by his oath that he has borne a true allegiance to his government. This Court now holds this constitutional provision void, on the ground that the Federal Constitution forbids it. I leave the two cases to speak for themselves."

In justice to the distinguished judges who joined their dissent with that of Mr. Justice Miller, it must be said that they did not pass any judgment in approval of the policy which inspired the amendments to the Missouri constitution. This was within the domain of legislation and statesmanship, and not for the judiciary. The reader is left to presume, from Mr. Justice Miller's words, "I leave the two cases to speak for themselves," that there was a conflict between the earlier and later opinions of the Supreme Court; and that, since the effect of the state constitution in Mr. Cummings' case was to violate religious liberty, therefore, the later opinion was unsound.

No two opinions of this exalted tribunal better illustrate the fact that no public man can wholly divest himself of a tendency to form his judgment of great issues, according to the imperceptible bias resulting from their discussion amid the every-day affairs of life. The argumentation which is faulty to one mind is quite logical to another. The writer sees no conflict whatever between the decisions in the two cases. Yet, they are so conflicting to Mr. Justice Miller, that he leaves them "to speak for themselves." The writer sees no religious question in Mr. Cummings' case. Nor is there any in Mr. Permoli's case. He only sees a violation of civil rights in each case — forbidden in one case by the Constitution of the United States, and which should have been, and perhaps was, forbidden in the other case by the state constitution. It has been said by the distinguished William Whiting, in his able work on the "War Powers of the United States," that — "Upon political discussions . . . the judges are usually at variance with each other; and the views of the majority will prevail until the majority is shifted." This was said many years before the Electoral Commission discussed the political question of the Presidential succession in 1877, and before the reversal of the legal tender opinion.

Akin to the proscription case of the Rev. Mr. Cummings, was that of Augustus H. Garland. It was brought under the act of Congress of July 2, 1862. Mr. Garland has but recently resigned a seat in the Senate, to enter President Cleveland's Cabinet as Attorney-General. He brings to that office the highest abilities of the statesman, combined with a wealth of learning and legal acumen that has rarely been equaled by any of his predecessors. In the year 1860, he was admitted to practice as an attorney and counselor in the Supreme Court of the United States. He took the official oath of that day. Then, as now, he was a citizen of the State of Arkansas. In May, 1861, that state passed its ordinance of secession. With the majority of his fellow-citizens, he went with his State. He was elected a member of the Confederate Congress, first to the lower house, and afterward to the Senate. Desiring to do everything in his power to restore the Federal relations after the Confederate surrender, he obtained a full pardon and amnesty from President Johnson, in July, 1865. The conditions prescribed therein were, to support the United States Constitution, and obey all laws and proclamations abolishing slavery. He complied with the conditions. In pursuit of his professional business he sought to renew his practice in the Supreme Court. He found himself disbarred, notwithstanding his full pardon and amnesty. He was disbarred because of a rule of court, made according to the requirements of an act of Congress passed on Jan. 24, 1865. This rule required all attorneys and counselors, before being allowed to practice in any United States courts, to take what is known as the "Iron-Clad" oath, prescribed by the act of July 2, 1862. He made application to be allowed to resume his practice. He rested his right on two grounds:

1. That the act of Jan. 24, 1865, so far as it affected his status in the court, was unconstitutional and void; and

2. That if it were held to be constitutional, nevertheless, the pardon of the President removed any disabilities that the statute was intended to enforce.

Mr. Garland, exercising the common right of every citizen, filed a brief in his own behalf. He was ably seconded by his counsel, Reverdy Johnson and M. H. Carpenter. Mr. R. H. Marr was in the same position as Mr. Garland. He also filed a brief in the case. Mr. Attorney-General Speed and Henry Stanbery, who was afterward Attorney-General, appeared for the government against the petitioners. The case was thoroughly argued. Mr. Justice Field delivered the opinion. The act of July 2, 1862, is familiar.

The act of 1865 was a supplementary prohibition, applying to attorneys and counselors at law in the courts of the United States. Addressing himself to the case, Mr. Justice Field said: "The question is not as to the power of Congress to prescribe qualifications; but whether that power has been exercised for the infliction of punishment against the prohibition of the Constitution. That this result," said he, "cannot be effected directly by a state, under the form of creating qualifications, we have held in the case of Cummings *vs.* The State of Missouri, and the reasoning by which that conclusion was reached applies equally to similar actions on the part of Congress." The effect of the pardon was also considered; but the decision did not rest on the pardon. The pardon would blot out all the guilt of an offense, so that in the eye of the law no offense had ever been committed. It removed all penalties and disabilities. It restored all civil rights. The only limits on the operation of a pardon were that it could not restore offices forfeited, or property or interests vested in others by judicial proceedings. The court decided that the requirement to take the oath was void, although in form it was a regulation which would have been valid, had not the intention been to have it operate as a punishment on those who could not subscribe to it. The rule of the court which required it was rescinded, — it "having been unadvisedly adopted." Mr. Garland was thereupon admitted to practice in the court, where he now stands as the leader of its bar.

It is obvious from the reasoning of the court in these two cases, that the iron-clad oath was contrary to the Constitution of the United States, even in the matter of Federal offices. The American citizen could not, at that time, be disqualified for Federal office, as a penalty for past conduct or opinion. It was, in fact, proscriptive legislation. Such legislation has the effect of an attainder, or of an *ex post facto* crimination. Both are unconstitutional. Now, however, this is not altogether the case. After these decisions were made, a radical Congress, still intent on proscribing the best classes of the Southern people from all participation in the affairs of the Nation, forced

the Fourteenth Amendment into the Constitution. They made its adoption a condition for the restoration of Federal relations to states that were held under the arbitrary rule of semi-military governments. The third section of that amendment is clearly a bill of attainder, although in form a declaration of qualification for members of Congress, Presidential electors, and state and Federal officers. The second section is of the same character. It grants, or attempts to grant, power to the state to proscribe by *ex post facto* laws certain classes of citizens, and to deprive them of their elective franchise.

This amendment introduced into the organic law a principle so abhorrent to liberty and justice, that from time immemorial it had been regarded by the American people and their ancestors as one of the vilest which could be resorted to, under the worst forms of tyranny. It was thought that no free people could submit to it under any circumstances. But there it stands. It is to-day a monument to the satanic malice of the radical party. It is a warning to succeeding generations of the excesses of partisan lust. It is the highest glory that any party can claim, that it opposed with all its might, this amendment that is so obnoxious to every other feature of our government. It is to the glory of Mr. Speaker Randall and the Democrats who followed him, that he led them successfully in an encounter against the infamous Force bill which was intended to crystallize into acts of hate these codes of spite. The scope of this amendment has been curtailed by the recent partial repeal of the iron-clad oath. After long and repeated efforts to that end in Congress, this much was secured. It is one of the writer's gratifications that the fight he commenced almost single-handed years ago against that attainder oath, he carried on and on, until in the very last Congress he forced a repeal of some of its worst tests, under a suspension of the rules and by a two-thirds vote. But an account of those efforts will be given in another place.

The iron-clad oath was the worst and the most wide-reaching of all the unconstitutional proscriptions in the South. Property might be and was often seized and confiscated; but still there was left the talent and ability to replace the rapine. But in the case of the oath, the proscription lasted for all time. It excluded almost the whole talent and worth of nearly one-half the people of the Union. It forbade them any honorable participation in their own government. Was it any wonder that the Democratic party did all that it could to prevent such terrible outrages and violations of natural and constitutional rights? Yet, on the pretense of patriotic defense of the law and of cherished principles of government, the party of such tyrannical measures had, and still has, the unblushing audacity to charge that the Northern Democrats aided and sympathized with secession. Had it not been for the Democratic party there would not be to-day a Union of states. There would be only the unity of a government by the party of ostracism and tyranny.

CHAPTER XIII.

FOREIGN RELATIONS DURING THE CIVIL WAR.

GREAT BRITAIN RECOGNIZES THE CONFEDERACY—BELLIGERENT RIGHTS CONCEDED—JUDGE BLACK'S CIRCULAR LETTER—MR. BUCHANAN'S ADMINISTRATION VINDICATING NATIONAL JURISDICTION—MR. SEWARD SPEAKING FOR PRESIDENT LINCOLN'S ADMINISTRATION—APPREHENSIONS—A FEATHER IN THE SCALE—THE SWITZERLAND CASE—EARLY TREATIES WITH EUROPE RECOGNIZING OUR INDEPENDENT AND SOVEREIGN STATES—THE SPANISH AMERICAN STATES—FREEDOM OF THE STATES—MEDIÆVAL RULES OF MARITIME LAW—PIRACY—CONTRABAND OF WAR—TREATIES AS TO CONTRABAND—THE MARCY PROPOSITIONS—THE PARIS CONFERENCE OF 1856 AND ITS DECLARATION—THE UNITED STATES AMENDMENT OF THE DECLARATION—THE AUTHOR'S RESOLUTIONS AND SPEECH—THE DEMOCRACY OF THE SEA—EARL RUSSELL'S PROPOSITION—MR. SEWARD'S DILEMMA AND RESPONSE—THE CONFEDERATE RIGHTS AS BELLIGERENTS—CANADA REBELLION IN 1838—OUR BLOCKADE MUST BE RESPECTED—OUR NAVAL ARMAMENT—MR. SEWARD AS A STATESMAN.

THE most important question in regard to our foreign relations during the civil war period, was that of the status of the seceded states. This question received early attention. It was discussed not only by the Federal and Confederate Cabinets, but also by the Cabinets of the leading European nations. By a tacit understanding with the other powers, England took the leading part in determining this and all other questions of an international character growing out of our war. The result was, that as early in the struggle as May 13, 1861, the Confederacy was recognized by Her Britannic Majesty, in a proclamation of neutrality, as a belligerent power. To prevent such a recognition, Mr. Black, Secretary of State in the administration of President Buchanan, had, on Feb. 28, 1861, addressed a circular letter to each of our ministers at the European courts. In this letter Mr. Black stated that it was not improbable "that persons claiming to represent the states which had attempted to throw off their Federal obligations, would seek a recognition of their independence" by the governments to which the ministers to whom the letter was addressed

were accredited. "In the event," he said, "of such an effort being made, you are expected by the President to use such means as may in your judgment be proper and necessary to prevent its success." He called attention to the reasons set forth in the President's message, then recently addressed to the Congress, showing that the states had no constitutional power to secede from the Union; and that the Southern States had no sufficient grounds "to justify the revolutionary act of severing the bond" which connected them with their sister states. "This government," he said, "has not relinquished its constitutional jurisdiction within the territory of these states, and does not desire to do so." For this reason, said the secretary, "it must be very evident that it is the right of this government to ask of all foreign powers that the latter shall take no steps which may tend to encourage the revolutionary movement of the seceding states, or increase the danger of disaffection in those which still remain loyal." Attention was called to the facts that Mr. Lincoln had been elected as the candidate of the Republican or anti-slavery party; that the preceding discussion had been confined almost entirely to topics connected, directly or indirectly, with negro slavery; and that the electoral votes of the Northern states (excepting three in New Jersey) had been cast for the anti-slavery candidate, while the sentiment of the South was the other way. Our ministers were to hold out the hope that entire harmony would soon be restored. They were to point out to foreign governments that any acknowledgment by them of the so-called Confederate States would tend to disturb the friendly relations, diplomatic and commercial, then existing between those governments and the United States, and prove adverse to their own interests. Thus early did the administration of President Buchanan take the important step of instructing our representatives abroad to use their best efforts against any recognition of the Confederate States. No uncertain grounds were taken. The secession movement was characterized as unjustifiable and revolutionary. National jurisdiction was asserted. The consequences of foreign recognition were plainly stated. It was still hoped that the seceding states would, in a short time, submit their grievances, if any, to peaceful arbitration. Yet this Administration was afterward denounced because it did not, at that time, destroy this hope by resorting to the sword at once.

Upon the 9th of March following, Mr. Seward, Secretary of State in President Lincoln's administration, addressed a circular letter to the same ministers. He called attention to Mr. Black's previous instructions. He reiterated them. He expressed the same hope of a speedy adjustment of our troubles, "by a firm, yet just and liberal bearing, co-operating with the deliberate and loyal action of the American people." Our ministers were to "truthfully urge" upon foreign governments that the "present disturbances" had "their origin only in popular passions, excited under novel circumstances of very transient character." In this vital matter, the Republican

Administration pursued throughout the war the policy of the last Democratic Administration. England, as stated, took the lead in ignoring all the friendly considerations urged by Mr. Seward and his predecessor against the recognition of the seceding states. Much had been expected from her supposed friendship for the United States and announced abhorrence of negro slavery. But this expectation was disappointed by Her Britannic Majesty. She announced by the proclamation that her government had assumed a neutral attitude in regard to our contest. Her Majesty's government thereby recognized the Confederate States as a belligerent power. This recognition gave great encouragement to the Confederates. It had a corresponding effect in prolonging the war, with its enormous outpouring of fraternal blood and common treasure.

In perusing the diplomatic correspondence of this period, the reader can see prominent in its pages, a great apprehension of foreign intervention in our affairs. It seemed, at times, as if a feather would have cast the scales against us. Our form of government was not favored by those who created and directed the policies of the European nations. The mere existence of such a free and popular government was regarded as a standing menace to monarchical institutions. The advocates of these institutions had long been predicting, what they wished,— our downfall. There was, therefore, good reason to apprehend that nothing but discretion would restrain the anti-republican parties in England and other European powers from forcing their governments into ultra measures against the Union. It was discretion, more than regard for comity, that prevented intervention. In 1848, the republican movement which had long been fomenting in Europe had given a shock to monarchical institutions. This did not incline the ruling classes to look with disfavor on the dismemberment of our Union. Nevertheless, the supporters of monarchy must have seen the impolicy of giving countenance to the disruption of a great government by revolutionary measures. This consideration operated in our favor. It had a restraining influence on the powers which might have actively favored secession in the American Republic.

Fourteen years before our trouble there was secession in the Swiss Republic. There was an attempted intervention in its favor by the great European powers. At the opening of the Federal *Tagsatzung* (Swiss diet) on July 5, 1847, the presiding officer, Ulrich Ochsenbein, spoke in regard to the threatened recognition of the seceding cantons by England, France, Austria, Prussia, Russia, and other powers. He said on that trying occasion: "No foreign intervention in our domestic affairs should be tolerated. Switzerland never solicited any foreign power to guarantee the constitutional compact of her twenty-two cantons. The sovereignty of her government never has been questioned; it was her territory alone which the allied powers at Vienna declared inviolable. Should she be subjected to

the intermeddlings of any foreign power, we would prove to the world that her arms are strong when raised in defense of our rights; and that in such a contest they would be powerfully supported by the sympathies of every people seeking to imitate our political institutions."

There was then grave reason in that Mountain Republic to apprehend such intervention as we feared in our Civil War. Two days before, the French Premier, Guizot, had sent a note to Count Bois le Compte, the French Ambassador in Switzerland. In it, he clearly indicated a design to favor the Swiss secessionists. The grounds on which the recognition of the seceding cantons was to be declared were so similar to those which might have been applied to us by any European power, that no apology is necessary for now presenting them. The position assumed by France, as stated by Guizot in his note, was this:

The Federal Congress of Switzerland has no right to submit a minority of cantons to the will of the majority, inasmuch as all treaties acknowledge Switzerland, not as a centralized power, but as a Confederacy of states, which have each reserved, as a check on the Federal Congress, their supreme right of state sovereignty." France, therefore, in conjunction with the other Allied Powers of Europe, protested against any interpretation of the Swiss compact that would, as M. Guizot stated the case, destroy the individuality of the cantons. Any other interpretation would lead to the total abrogation of the Federal Constitution of Switzerland. It would consequently invalidate the treaties made under its provisions. On this slender pretext the Allied Powers were in favor of aiding the Swiss secessionists to destroy the only republic in Europe. Two years before, England had expressed a willingness to accept any change of the Swiss government that the Allied Powers might approve. Then, as in our own case, the London *Times* was vehemently in favor of foreign intervention. It extolled the Secession League. It denounced the Federal government. The *Morning Post*, true to its anti-republican policy, styled the Federal army of Switzerland, "the army of invasion." The brave little republic was not intimidated. It remained unmoved. It still stands, like its mountains — a monument to patriotism and liberty.

Similar to that of the Swiss, would have been our defiance to the Powers of Europe, had foreign intervention come upon us. We did not court a greater conflict than that which seemed to engage all our strength. But surely, if the Helvetii could talk to Europe in the strain quoted, we need not have been apprehensive of intervention by the powers of that continent. They could have made the same case in regard to our seceding states that they made in favor of the seceding cantons. Indeed, it was always a matter of quiet surprise to the writer, that none of the powers suggested it. England did not do so, although she might have discovered a foundation for the theory that our government was "a Confederacy of States,

which had each reserved, as a check on the Federal Congress, their supreme right of state sovereignty." She need have gone no further than our treaty with Great Britain, by which, in the year 1783, His Britannic Majesty was required to admit, and did admit, the independence of the United States. The first article of that treaty is in these words:

"His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New-York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign and independent states; that he treats with them as such, and for himself, his heirs, and successors, relinquishes all claims to the government, property, and territorial rights of the same, and every part thereof."

This is the only form of our independence that England had ever recognized. She expressly recognized a Confederacy of Sovereign States. In our earlier treaties with France the like enumeration of sovereign states is made. And although we afterwards entered into a "more perfect Union" than the old Confederacy, the question of the limitations on state sovereignty was not settled until the unanswerable argument of war decided it, so far as foreign powers are concerned, in favor of the government of the United States. No cognizance by treaty has been taken by either of these powers, of the change in our form of government from a Confederacy of Sovereign States to a Union of Sovereign States. This omission would have been a sufficient diplomatic pretext for British intervention, if that government had followed the precedent of the Swiss Republic case. Its application could have been urged, not only from the article of the treaty above quoted, but also on the doctrine of the ultra states rights school of Americans, who accepted and advocated the view that the states are supreme in all matters that concern their own welfare. The writer is not aware that Confederate diplomacy ever saw the application of that precedent to the status of the seceded states. But whether it did or did not, our foreign correspondence was not encumbered with the question of state sovereignty.

Mr. Seward may have had some apprehension of such a question. As early as March 26, 1861, he instructed our ministers abroad that the President would not consent, "directly or indirectly, to the interpellation of any foreign power in a controversy which is merely a domestic one." On the 6th of April following, he said this, substantially, in a letter to Mr. Corwin, of Ohio, our Minister to Mexico. He used the word "interpellation." No more comprehensive word could be used to express the national policy. We would have not only no intervention, but no intercession for, or censure of, those of our fellow-citizens who had arrayed themselves against the national government. This policy was modified only in so far as the recognition of Confederate belligerent rights compelled. But that recognition came in due time from the Federal Government itself, as an incident of civil-

ized warfare, quite as much as from the action of foreign powers. After these rights had been admitted, the only diplomatic questions of great importance with which the United States had to deal, were those affecting the blockade and international maritime rights. In view of the position which Mr. Seward took on assuming office in respect to intervention, no other international questions than those could have arisen, without involving a foreign war. Yet the possibility of such a war was never overlooked by that statesman.

It may be of interest to note here, that Mr. Seward did not lose sight of the hope of relations with the Spanish American republics, which would soon assume "a spirit more elevated than one of merely commercial and conventional amity,— a spirit disinterested and unambitious, earnestly American in the continental sense of the word, and fraternal in no affected or mere diplomatic meaning of the term." "These states," said he, in the letter to Mr. Corwin before referred to, "hold a common attitude and relation towards all other nations. . . . It is the interest of them all to be friends, as they are neighbors, and to mutually maintain and support each other, so far as may be consistent with the individual sovereignty which each of them rightly enjoys, equally against all disintegrating agencies within, and all foreign influences or power without their borders." This was the only movement for foreign aid or sympathy made by Mr. Seward during the war. He courted no European alliance. He was a continental American. He subsequently gave proof of the sincerity of his sympathy with our sister republic when an emperor was forced upon Mexico.

It was supposed by many that a dearth of American cotton might induce England to seek a supply of that staple by breaking the blockade of our Southern sea-ports. Up to the period of the Civil War the textile manufactories of Europe, and especially of England, were large consumers of American cotton. The blockade had cut off this supply. Mr. Seward was aware that great efforts were made by manufacturers to induce the English government to disregard the blockade. He was therefore most persistent in the assertion that the force of the Confederacy would soon be broken. Each disaster to our arms intensified this assertion. But, at the same time, each month of the war saw great accessions to our naval force. It was on the ocean only that foreign intervention could affect anything; and there, with our commerce fast disappearing, and the nearest foreign base of operation three thousand miles away, we had, by reason of the augmentation of our navy, comparatively little to fear. It was probably owing to these considerations, as much as from respect for international ethics, that England, and perhaps also France, did not attempt to raise the blockade of the Southern ports.

After all, cotton was not so much the monarch it had been reputed. It was soon discovered that it might be produced in sufficient quantity, if not

of as good quality, elsewhere than in the Southern States. On Dec. 6, 1861, cotton in Liverpool was not quoted at half the price it commanded in our own market. The stock in England on that date was 606,818 bales, although there was a deficiency of 200,000 American bales. This deficit was more than made up by the increasing production of India. On the corresponding date of the previous year, the stock of cotton in England was only 579,620 bales. The imports of India cotton had increased to 85 per cent. for eleven months of 1861, and in the last four of these months the increase arose to 160 per cent. At this rate of increase, India alone could supply England the following year with 1,350,000 bales of cotton, not to speak of the increasing production of Egypt and Brazil, which ordinarily exported about 200,000 bales. There was, therefore, not such a dearth of cotton as would justify British statesmen in risking a war with the then first naval power of the world, in order to obtain it from the Southern States.

Aside from the question of Confederate recognition, the complications requiring diplomatic skill were such as usually occur in war.

By long established policy, the United States Government was committed to the doctrine of the Freedom of the Seas. This doctrine asserted that the commerce of the world should be free from interruption by belligerent powers. Was there any exception? Only in so far as an actual and effective blockade of the ports of either power might prevent an entrance to shipping. Up to the time of the Civil War, our government had contented itself with the assertion of this doctrine in its own behalf. Some efforts had, from time to time, been made by our statesmen to induce England and other maritime powers to accept it as a rule of international law. But this was without success.

American policy has always moved on the line of humane progress. In the management of our foreign relations, it has generally been the object of American statesmen to encourage the development of international commerce. We strove to relieve its argosies from the operation of maritime laws which pertained more to the piratical, barbaric past than to modern civilization. Long before the era of Independence, the American colonies had made a wonderful advance in commercial enterprise. Their commerce grew in spite of the most adverse circumstances. They encountered not only the harshest opposition of the "mother country," but, also, the enforcement of the worst restrictions of international codes which recognized maritime war as the most important and honorable of oceanic enterprises. The rules of these codes were developed in mediæval times by the Gothic rovers of the seas on misapplied principles of Roman military law. These rules recognized no maritime rights that were not accompanied by the power to enforce them. There was no *jus gentium* without the required force. The quarter-deck was the prize court, the captor was the judge. In short, almost to the present century, the code maritime of the great naval powers of Europe was little better

than a system of legalized piracy. When England arrogated to herself the title of "Mistress of the Seas," the less formidable maritime nations began under her aggressions, and the advancing civilization, to recognize the propriety of relaxing the harsher rules of the mediæval codes. Amendments were gradually adopted by them. England, however, long maintained the piratical practice of impressing the citizens of other nations into her naval service. She did not even allow them the alternative of walking the plank. She not seldom forced them to fight against their own flag. As for the cargoes of foreign ships navigating distant seas, they were confiscated without a moment's hesitation or inquiry, without regard to the relations of the governments concerned. In the seventeenth and eighteenth centuries, the "Spanish Main" was a favorite source of ill-gotten wealth for the buccaneering fleets of Great Britain. At a later period, the general seizure practice of these fleets began to be limited to ships of the enemy and "contraband" goods. Writers on the law of nations had, from the time of Grotius, asserted that its rules did not countenance the piratical practices of the times. This protest of law made little difference, however, on the Spanish Main. But in course of time a practice obtained, under which, in merchant traffic, goods "contraband of war" would alone be regarded as subject to seizure in neutral ships. As there was some difference of opinion among commentators in respect to what goods were contraband by the law of nations, and as each belligerent power was in the habit of deciding the questions as they arose according to its own strength and inclinations, treaties were entered into by which the contracting parties came to an understanding in the matter. By the decisions of the courts maritime, in course of time the rules of international rights and duties became fixed. Under these decisions, it appears there are two classes of contraband of war, namely, *goods* which neutrals are prohibited from carrying during war to the belligerent parties, and *persons* to whom they are forbidden to give passage.

From the first day of its independence, the United States Government adopted the policy of specifically enumerating in treaties not only the *goods* but the *persons* to whom the law of contraband should apply. Our policy in regard to men and goods was most liberal. The Continental Powers of Europe were more willing than England to meet us with a like policy. The latter power did agree to a schedule of contraband goods in the treaty negotiated with her in the year 1794. But we failed, until the settlement of the "Trent affair," to bring England to terms in regard to the exemption from capture of all persons except military enemies. We always admitted that the latter, when found by a belligerent on a neutral vessel, are subject to capture, even where the vessel is engaged in lawful commerce.

After the settlement of the Trent affair, Mr. Sumner discussed with great ability in the Senate, the maritime policy of the United States. He said that the true and time-honored American policy is that which was de-

clared by Madison and Monroe in the year 1805, namely, that in exercising the right of search, the United States cannot accede to the claim of any nation to take from their vessels, on the high seas, any description of persons except soldiers in the actual service of the enemy, and that no goods can be contraband except those specially mentioned in treaties. All other effects may, "without any exception and in perfect liberty, be transported to places belonging to the enemy, excepting only places which shall be besieged, blockaded, or invested." The language last quoted is taken from our treaty with the Netherlands. This treaty was negotiated as far back as 1782. We enumerated the articles that were to be contraband, in our treaty with France in 1787. Our constant effort was in this direction. This policy is exhibited in every convention made with the Spanish-American States, beginning with Columbia in 1824.

A few years before the secession troubles, when we had no apprehension of war with any power, the United States Government, in the spirit of our favorite foreign policy, as dictated by William L. Marcy, submitted to the maritime nations of Europe certain propositions. These were to be by them agreed upon as permanent principles of international law. This was in the year 1854. These propositions were:

First. Free ships make free goods; that is to say, that the effects or goods belonging to subjects or citizens of a power or state at war, are free from capture or confiscation when found on board of neutral vessels, with the exception of articles contraband of war.

Second. The property of neutrals on board an enemy's vessel is not subject to confiscation, unless the same be contraband of war.

Third. Blockades, to be respected, must be effective.

Some of the governments expressed a willingness to accept these principles. Others, who were at war, preferred to await the termination of hostilities before entering upon negotiations respecting them.

On the 16th of April, 1856, a congress, consisting of several maritime powers, was in session at Paris to effect some liberal modifications of the law of nations in regard to maritime war. On the same day the plenipotentiaries of the great powers were assembled. These were from Austria, France, Great Britain, Prussia, Russia, Sardinia, and Turkey. They came to an agreement. It was in the form of a declaration, on these principles:

First. Privateering is and remains abolished.

Second. The neutral flag covers enemy's goods, with the exception of contraband of war.

Third. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag.

Fourth. Blockades, in order to be binding, must be effective; that is to say, maintained by forces sufficient really to prevent access to the coast of the enemy.

These four principles of maritime law constitute what is called, in diplomatic language, the Declaration of Paris.

The parties to this agreement pledged themselves to invite powers which had not been represented in that congress to accede to the declaration. It was agreed that the declaration should be binding on the parties to it, and on those who might accede to its principles, as one whole and indivisible compact. It was further agreed, that neither the original nor subsequently acceding parties should enter into any arrangement on the application of maritime law in time of war, without stipulating for a strict observance of the four principles of the declaration.

Up to the year 1861, forty-one powers had acceded to the Declaration of Paris. The list includes almost every European and South American state. The declaration was submitted, in 1855, by the governments at the congress, to the government of the United States. The following year, about July 14, 1856, Mr. Marcy, our Secretary of State, informed them that the President, Mr. Pierce, would not accede to it. In making this announcement, Mr. Marcy, in behalf of his government, called the attention of the states represented at Paris to the following points:

"*First.* That the second and third propositions contained in the Paris Declaration are substantially the same with the two propositions which had before been submitted to the maritime states by the President.

"*Second.* That the Paris Declaration, with the conditions annexed, was inadmissible by the United States in three respects, namely: 1st, That the government of the United States could not give its assent to the first proposition, . . . although it was willing to accept it with an amendment which should exempt the private property of individuals, though belonging to belligerent states, from seizure or conscription by national vessels in maritime war. 2d, That for this reason the stipulation annexed to the declaration, viz.: that the propositions must be taken altogether or rejected altogether, without modification, could not be allowed. 3d, That the fourth condition annexed to the declaration, which provided that the parties acceding to it should enter into no negotiation for any modifications of the law of maritime war with other nations which should not contain the four points contained in the Paris Declaration, seemed inconsistent with a proper regard to the national sovereignty of the United States."

On the 29th of July, 1856, Mr. Mason, then Minister of the United States to France, was instructed to propose to the imperial government of that country, to enter into an arrangement with the United States for its adherence to the Declaration of Paris, provided that the first principle should be amended as specified in the President's decision of the 14th of that month. Instructions were sent on the 31st of January following, to Mr. Dallas, our Minister at London, to make the like proposition to the British Government. No favorable results came from this effort. Probably there could not have been

with these powers alone, since the conditions with the declaration prohibited all the powers that were parties to it, from regarding the declaration in any other light than as "one whole and indivisible compact." When Mr. Buchanan became President he directed the negotiations to be arrested for the purpose of enabling him to examine the questions involved. Nothing further was done in these matters during his administration.

It is one of the felicitations of the writer, that on the 3d of March, 1862, he was pronounced on this topic. War was then flagrant. Timidity about foreign affairs was the rule, and that "gay and festive defiance of foreign dictation," which Rufus Choate defined as the Democratic policy, was the exception. The writer then offered a preamble and resolutions, defining our principles and duty. As perplexities may arise on these questions in case of future foreign wars, it is well to note the distinctions and history of this absorbing topic. These are the resolutions he offered in relation to maritime rights:

"*Whereas*, international law cannot acquire any considerable extension except by the collective work of the nations either assembled in congress by delegates, or by the combined negotiation of the principal nations: *and whereas*, the events connected with the Trent affair have given rise to the discussion of maritime rights by the principal powers of the world, — all interested in their authoritative settlement; and in that discussion the friendly offices of the Emperor of France were tendered to this government for the purpose of adjusting the questions involved on a clear and liberal basis, looking to the amelioration of the rights of neutrals upon the sea: Therefore,

"*Be it Resolved: First*—That the National Legislature acknowledges the friendly intentions and enlightened views of the Emperor of the French in said interposition.

"*Second.* That it favors the most liberal propositions with respect to maritime rights and the abolition of such usages as restrict the liberty of neutrals and multiply the causes of dissension in the world, believing that humanity and justice demand that the calamities incident to war should be strictly limited to the belligerents themselves and to those who voluntarily take part with them; but that neutrals abstaining in good faith from such complicity ought to be left to pursue their ordinary trade with either belligerent.

"*Third.* That the present time is propitious for the resumption of negotiations to secure these objects, and especially for the concurrence of the nations in the benignant articles of the Declaration of the Congress of Paris of the sixteenth of April, eighteen hundred and fifty-six, with the amendment proposed by Mr. Marcy, viz.:—1. Privateering is and remains abolished, *provided that* the private property of the subjects or citizens of a belligerent on the high seas shall be exempted from seizure by public armed vessels of the other belligerent, except it be contraband. 2. The neutral flag covers

enemy's goods, with the exception of contraband of war. 3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag. 4. Blockades, in order to be binding, must be effective.

"*Fourth.* That the people of the United States entertain the hope that the great maritime powers of France and England, relinquishing their present objections growing out of their ill-advised recognition of our insurgent states as belligerents, will consent to the propositions of the Paris conference, as the United States have so constantly invited, and as Mr. Marcy proposed to the government of France on the twenty-eighth day of July, eighteen hundred and fifty-six; with such a liberal expansion of them that the private property, not contraband, of citizens and subjects of nations in collision should be exempted from confiscation equally in warfare waged on the land and in warfare waged upon the seas, which are the common highways of the nations.

"*Fifth.* That the efforts of the late Secretary Marcy and the present Secretary of State to have these maxims ingrafted as fixed principles of international law were eminently wise and just, sanctioned by our traditionary policy, and conducive to the welfare of the Republic, and to the highest interests of peace and civilization.

"*Sixth.* That, for the accomplishment of this result, it would be both courteous and wise for our government to consider the proposal of the eminent publicist of France, M. Hautefeuille, for a Congress of the maritime powers, which, by uniting in one body the scattered forces of all neutrals, may secure to each the respect and security which they cannot obtain while remaining isolated; and that thus they may be enabled to maintain, as a lasting element of the law of nations, that maritime equilibrium so long sought by the United States of America, and so important to the freedom of commerce and the repose of the world."

On the 11th of April, 1862, these resolutions were advocated by the writer in a speech, entitled "The Democracy of the Sea." In this speech, the liberal position of America is vindicated. Had our government in its intestine conflict followed these doctrines upon the land, it would have been upon a firmer ground of vantage than it enjoyed. It would have commended this nation, with emphasis, to the attention of mankind, as the advocate of liberal laws applicable to another and less stable element.

This subject received, in all its length and breadth, as the author advocated it, early and long attention at the hands of Mr. Seward, in the administration of Mr. Lincoln. On April 24, 1861, Mr. Seward addressed a circular letter to the ministers of the United States in Great Britain, France, and the other principal nations of Europe. In this he detailed, substantially, the history of the Declaration of Paris, and the relation of the United States Government to that new chapter in the law of nations which it had inspired without becoming a party to it. England and France having taken the lead

in all foreign negotiations to be entered into with us at that time, the former proposition to admit the United States as a party to the Paris Declaration, with the desired amendment to the first article, was, in pursuance of that letter, submitted to these powers. A long and fruitless correspondence ensued. The correspondence on our side was conducted by Mr. Seward, Charles Francis Adams, Minister to England, and William L. Dayton, Minister to France; and on the side of England and France, by Earl Russell and M. Thouvenel, ministers of the respective governments for their foreign affairs. It is needless to say, that in the hands of these brilliant statesmen the subject of the discussion was exhaustively treated. The letters exchanged are specimens of consummate ability and profound diplomacy. The immediate inspiration of Mr. Seward was to neutralize the effect of any recognition of the seceded states as a belligerent power. He saw this Scyllæum looming up in the course of the Ship of State. He hoped to steer past its dangers. England saw it also. She was determined that we should not, by any consent on her part, escape from wreck. Both that power and France were willing that we should come in as a party to the Paris Declaration, "pure and simple." We were at this time willing to waive the amendment proposed by Mr. Marcy. We would have waited for its acceptance at a future time, when other powers should come up to our moral standard. Everything was arranged, as we supposed, for a convention to be submitted to our Senate, as the Constitution required, when lo! Earl Russell, on Aug. 19, 1861, said to Mr. Adams, in a short note: "I have the honor to enclose a copy of a declaration which I propose to make upon signing the convention, of which you gave me a draft, embodying the articles of the Declaration of Paris.

"I propose to make the declaration in written form, and to furnish you with a copy of it.

"You will observe that it is intended to prevent any misconception as to the nature of the engagement to be taken by Her Majesty.

"If you have no objection to name a day in the course of this week for the signature of the convention, Mr. Dayton can on that day, and at the same time, sign with M. Thouvenel a convention identical with that which you propose to sign with me."

Enclosed in this note was the following Declaration:

"In affixing his signature to the convention of this day between Her Majesty, the Queen of Great Britain and Ireland, and the United States of America, the Earl Russell declares, by order of Her Majesty, that Her Majesty does not intend thereby to undertake any engagement which shall have any bearing, direct or indirect, on the internal differences now prevailing in the United States."

Up to this moment, not the slightest intimation of such a declaration was made. Its language meant, although almost enigmatical in its terms, that the Confederate States were not to be considered as a part of the United

States in the construction of the convention which our ministers had almost signed. The United States was to be bound by the Paris Declaration, but the Confederate States were to be regarded as a belligerent power. The latter were not to be bound by that declaration. They were to be free to grant letters of marque to privateers, and do all the acts prohibited to powers adhering to the Declaration of Paris.

Mr. Adams at once suspended action in the matter. It was practically at an end. He advised Mr. Seward of the new condition. Mr. Seward painfully felt this stinging slight put upon our government, all the more that he was not in a situation to resent it. In a letter to Mr. Adams, of Sept. 7, 1861, he said: "I am instructed by the President to say, that the proposed declaration is inadmissible. To admit such a new article would, for the first time in the history of the United States, be to permit foreign powers to take cognizance of and adjust its relations on assumed internal and purely domestic differences existing within our own country." "This broad consideration," said Mr. Seward, "supersedes any necessity for considering in what manner or in what degree the projected convention, if completed, either subject to the explanation proposed or not, would bear directly or indirectly on the internal differences which the British Government assume to be prevailing in the United States." Mr. Seward was not to be drawn into any convention which would in the remotest degree admit the existence of the Confederate States. On the other hand, England and France had each recognized the Confederacy as a belligerent power. These governments were acting conjointly in the proposed convention. France submitted, *mutatis mutandis*, the declaration of the British Government. Earl Russell delivered the letter to Mr. Adams on Aug. 19, 1861. M. Thouvenel delivered that of France to Mr. Dayton, the next day. Thus terminated the negotiations for the adhesion of the United States to the Declaration of Paris. How much the United States may be the loser by this failure, a war between two great powers, on the sea, will demonstrate.

Looking calmly over this correspondence, it does not appear that there was any weighty reason for requiring our acceptance of the additional declaration. Whether willing or unwilling, we were bound to accept the notice already given, that England and France, and other maritime powers, had recognized the Confederate States as belligerents. Had the government of the United States been one of the parties to the Paris congress, would that have had any effect on the belligerent rights of the Confederacy? Certainly not. The latter was not a party to any international compact. Hence, after its recognition as a belligerent, it had the right under the law of nations to carry on its war by every mode which that law permitted. It could, therefore, send out privateers, and no power that respected the law of nations would regard them as pirates. Whatever may have been our own disposition in respect to Confederate cruisers made no difference in a legal point of view, while they sailed under the ensign and commission of a recognized

belligerent power. Our authorities soon realized this stubborn fact. It is therefore a matter of regret that the negotiations for our adhesion to the principles of the Paris Declaration, which set forth time-honored American policy, should have failed by reason of England and France insisting on a declaration which had no real relation to the subject discussed, and which was regarded by our Executive as purposely offensive in its terms.

After all, it was a power greater, in respect to the United States, than England or France, or both together, with which our government had to deal; and that was the Confederacy itself. That power soon exhibited the ability to assert and maintain all the rights of a belligerent. This it would have done as well without as with the sanction of any foreign government. What we might justly complain of, was the hasty action of Her Britannic Majesty in proclaiming the neutrality of her government on May 13, 1861, before there was any substantial armament North or South. At that time, giving to the secession movement its largest effect, no foreign nation had any lawful right to regard it in any other light than as an attempt for disunion. We had not treated Great Britain in this manner on a like occasion. In the letter last quoted from, Mr. Seward said: "I do not think it can be regarded as disrespectful, if you should remind Lord Russell that when, in 1838, a civil war broke out in Canada, a part of the British dominions adjacent to the United States, the Congress of the United States passed, and the President executed, a law which effectually prevented any intervention against the government of Great Britain in those internal differences by American citizens, whatever might be their motives, real or pretended, whether of interest or sympathy. I send you a copy of that enactment. The British Government will judge for itself whether it is suggestive of any measures on the part of Great Britain that might tend to preserve the peace of the two countries, and through that way the peace of all nations." Had such a law been then enacted in Great Britain, the government of that nation would not have been called upon to settle the Geneva award, for the acts done or abetted by British subjects in violation of Her Majesty's proclaimed neutrality.

In the same letter Mr. Seward announced our foreign policy in these words: "Regarding this negotiation at an end, the question arises, what, then, are to be the views and policy of the United States in regard to the rights of neutrals in maritime war in the present case? My previous dispatches leave no uncertainty on this point. We regard Great Britain as a friend. Her Majesty's flag, according to our traditional policy, covers enemy's goods, not contraband of war. Goods of Her Majesty's subjects, not contraband of war, are exempt from confiscation, though found under a neutral or disloyal flag. No depredations shall be committed by our naval forces or by those of any of our citizens, so far as we can prevent it, upon vessels or property of British subjects. Our blockade, being effective, must be respected." Mr. Seward never for a moment failed to speak for the union of all the states. North and

South, all the people were ever considered by him as American citizens, for whose conduct in regard to other nations the government of the United States would be responsible. In his efforts to prevent foreign recognition of the Confederacy, Mr. Seward's position was that of unswerving devotion to the Union. He would not be entrapped into any admission of the possibility of its disruption. His great law was the law of self-preservation. "In assuming this position," said he, "and the policy resulting from it, we have done as I think Great Britain herself must, and therefore would do, if a domestic insurrection should attempt to detach Ireland, or Scotland, or England from the United Kingdom, while she would hear no argument nor enter into any debate on the subject." This language he addressed to the British Government on July 21, 1861, through Mr. Adams, our minister, in transmitting him a copy of the act of Congress which had just been passed, authorizing the President to proclaim certain ports of the United States to be closed to trade. It had been intimated by Lord Russell to Mr. Adams, that the British Government would question our right to close these ports. There was at this time domestic trouble in the Republic of New Grenada. The government of that country had notified the British Government that five named ports of that republic had been closed to commerce. On the 27th of June, 1861, Mr. H. Berkly, M. P., rose in the House of Commons and asked the Secretary of State for foreign affairs whether Her Majesty's Government recognized the notification given. Lord John Russell replied as follows: "The opinion of Her Majesty's Government, after taking legal advice, is, that it is perfectly competent for the government of a country, in a state of tranquillity, to say which ports shall be open to trade and which shall be closed; but in the event of insurrection or civil war in that country, it is not competent for its government to close the ports that are *de facto* in the hands of the insurgents, as that would be an invasion of international law with regard to blockade. Admiral Milne, acting on instructions from Her Majesty's Government, has ordered the commanders of Her Majesty's ships not to recognize the closing of their ports." Mr. Seward gave the British Government to understand that his government would not "for a moment acquiesce in such a doctrine." We had a navy of not unequal strength with that of Great Britain, and, to quote Mr. Seward's enunciation of American policy, "Our blockade, being effective, must be respected." We were troubled no further with the blockade question. Although not bound by the Paris Declaration, we adhered to our own time-honored policy from which its rules were framed; and voluntarily abandoned advantages of which we might have availed ourselves on the ground of not being bound by them.

Throughout our unhappy domestic strife, Mr. Seward directed our foreign affairs in a spirit of moderation and patriotism. He displayed an ability not surpassed in the diplomacy of any time. In the bitterness of the strife incident to the recombining of our national elements during the reconstruction period, the services, the high patriotism, the untiring labors of this peerless

statesman were forgotten or eclipsed by the events of that troublous era. Yet he was ever anxious to soften the asperities of the reconstruction period. He was generous to those who differed with him on political principles, while unyielding in his own tenets. To the author of this volume he was ever kind. He recalls with affectionate memory, in this connection, a speech delivered by Mr. Seward before an immense gathering of his neighbors in Corning Hall, Auburn, New-York, on the 31st of October, 1868. It was a deliberate speech, yet not devoid of clever humor. It had its effect not only in Auburn, but throughout the state. It gave to the author, who was then a candidate for Congressman-at-large for the State of New-York, a handsome percentage of votes beyond that given to others,—and notably large in Auburn. The question then was one of national reconciliation and magnanimity. Congress had been derelict in not receiving the states no longer belligerent. Mr. Seward had opposed force, and commended peaceful methods of persuasion and reason. He eulogized in that speech many of the Democratic leaders for their aid in carrying, and their loyalty in accepting, the amendment abolishing slavery. "I entertain," he said, "no ill-will toward the Democratic party or its leaders, and certainly have no uncharitable feelings toward that great constituency. On the other hand, I cherish a grateful appreciation of the patriotism, the magnanimity, the heroism of many of my fellow-citizens, with whom I have cheerfully labored and co-operated while they still retained their adhesion to the Democratic party. How could I distrust the loyalty or the virtue of Andrew Johnson, of General Hancock, of General McClellan, of Senator Hendricks, of Indiana, or his associate, Mr. Niblack, or of Mr. Cox, formerly of Ohio, to whom personally, more than any other member, is due the passage of the constitutional amendment in Congress abolishing African slavery?" This was great, and, to some extent, needed encomium at that time. Mr. Seward was a grand tribune of the people. He could proudly say that no state, nor any citizen, had by any act or word of his ever suffered disfranchisement or confiscation; nor, except for the assassination of Abraham Lincoln, had any one, through him, endured penalties or punishment after hostilities had ceased. He vindicated the Monroe doctrine in Mexico. He was a friend of the exile and emigrant. Praise and justice from him was pure gold. It was more to the writer. It was justification before his countrymen in the state of his adoption in a crucial test of all the liberalities of his political life.

To William H. Seward, the grandest man of his day, no national tribute has yet been paid. After a tour of the world, and after being received by all nations as the peer of any living statesman, he reposes in the sepulchre at Auburn, whose associations are as peaceful as the ways which led to it were stormful. But while the diplomatic correspondence of our Civil War shall remain in the archives of the Nation, that monument of his worth and greatness must far surpass in grandeur any memorial of bronze or marble that genius can conceive or art execute.

CHAPTER XIV.

THE TRENT AFFAIR.

THE CONFEDERATE COMMISSIONERS — THEIR AUTHORITY AND INSTRUCTIONS — THEIR ARRIVAL IN HAVANA — INTRODUCTION TO THE CAPTAIN-GENERAL — CAPTAIN WILKES DECIDES TO ARREST THEM — THE TRENT BROUGHT TO — RESISTANCE TALKED OF — BRITISH INDIGNATION AND THREATS — CAPTAIN WILKES RELEASES THE TRENT — HIS MISTAKE — THE PRISONERS AT FORT WARREN — THE QUESTION IN CONGRESS — MR. VALLANDIGHAM'S PREDICTION — MR. COX'S REPLY — EARL RUSSELL'S NOTE — MR. SEWARD'S REPLY — THE ARREST JUSTIFIED — BELLIGERENT RIGHTS, AND DUTIES OF NEUTRALS — A DIPLOMATIC DUEL — EARL RUSSELL DISARMED — NO APOLOGY — A DINNER PARTY — THE RELEASE OF THE PRISONERS — AN AMERICAN VICTORY.

IN October, 1861, John Slidell and James M. Mason were appointed commissioners or diplomatic agents of the Confederate States to England and France.

They were especially instructed by the Confederate Secretary of State, Mr. Hunter, to work for the recognition of the Confederacy as an independent power. As inducements to these governments, they were to represent — first, that a vast area of the South would be devoted to the production of cheap cotton; and second, that the development of the agricultural resources of the South under free trade would create a demand for the manufactures of England and France, larger and more profitable to all parties than would be possible under the commercial regulations of the United States.

The commissioners were to inform the governments to whom they were accredited that although the Confederacy, as then formed, included but eleven states, Maryland, Kentucky, and Missouri would undoubtedly attach themselves to its fortunes, after the close of the existing war. There would then be embraced in the Confederacy a great, populous, and growing empire. Its internal regulations would harmonize with the most liberal policies of commerce. The commissioners were to say that one of the conditions which would be insisted upon in any treaty of peace with the United States, would

be a stipulation to leave the border slave states free to vote on the question of withdrawing from the Federal Union and joining the Southern Confederacy; both governments to retire their military forces from these states until the question was decided. When the time should come for this proceeding, it was inferred that there would be no doubt that the vote would be in favor of the South.

Charged with these instructions, and clothed with all diplomatic authority in the premises, including the power to enter into conventions for treaties, the commissioners embarked at Charleston on board the steamer Theodora. The steamer eluded our blockading squadron, and landed them on the Island of Cuba.

Capt. Charles Wilkes was commanding the United States steam sloop of war San Jacinto, which carried thirteen guns. He was at this time on the south coast of the island, off Cienfuegos. Learning of the arrival of the Theodora with the commissioners, he took in a supply of coal and sailed October 26, with all dispatch, intending to capture the blockade-runner. The San Jacinto arrived at Havana on the thirty-first; but it arrived too late to intercept her. Before leaving Cienfuegos Captain Wilkes had ascertained that the commissioners were at Havana, and that they intended to depart from that port on board the English mail steamer Trent, about the 7th of November, *en route* for Southampton, England.

Captain Wilkes was a dashing, enterprising officer. He was one who would not hesitate to act on his own responsibility. Even in a doubtful case, when the interests and honor of his country were concerned, he resolved his doubts in favor of his flag. The question at once arose in his mind whether he had, under the law of nations, a right to arrest this embassy, while it was at sea under the protection of a neutral flag. At Cienfuegos he had access to some volumes of Kent, Wheaton, Vattel, and the decisions of Sir William Scott and other judges of the Admiralty Court of Great Britain, which bore on the rights and responsibilities of neutrals. As a first step in the inquiry, he rightly assumed that the case was within the sphere of international law. The governments of Great Britain, France, and Spain had already recognized the Confederate States as a belligerent power. The ports of these countries, and of their colonies and dependencies, were open to vessels bearing the Confederate flag. Confederate cruisers were then admitted to all the protection and courtesy extended to vessels of the United States. Clearly, therefore, the merchant vessels of the nations that had recognized this belligerent power were bound to observe the duties imposed upon them by international law in regard to contraband persons and property. In view of this obligation to avoid contraband trade, Captain Wilkes did not hesitate to board and search the Trent. As a matter of law his conclusion was impregnable. A neutral ship bearing dispatches of the enemy, if her commander had knowledge of the fact, was unquestionably subject to seizure

and condemnation. But the seizure of the persons of the commissioners was a different matter. Were they to be regarded as diplomatic agents? If they were, then, would they, under the law of nations, be subject to arrest? In respect to the latter question, Captain Wilkes had read in the authorities on international law, that "foreign ministers of a belligerent on board neutral ships are required to possess papers from the other belligerent to permit them to pass free."

Messrs. Mason and Slidell had assumed, and held themselves out at Havana, to be diplomatic agents of the Confederate States, bound on a mission to the governments of England and France. Captain Wilkes had ample proof of this fact. They had openly stated that they were clothed with full authority to form treaties and alliances. Their mission looked to the recognition of the Confederate States as an independent power. They had been presented to the Captain-General of Cuba by Her Britannic Majesty's Consul-General; yet it was stated that this was merely an act of courtesy. Captain Wilkes had been informed by the Captain-General that he had not received them in any official or diplomatic capacity, but only as distinguished gentlemen and strangers. Nevertheless, during their stay at Havana, both report and assumption gave these gentlemen the title of ministers of the Confederate States on a mission to England and France. It was in this character that they were introduced on board the English mail steamer Trent, by the British Consul-General and his son. The latter acted as agent of the steamer when the commissioners embarked on her *en route* for Southampton. This steamer was a merchant vessel. It was plying between Vera Cruz, Havana, and St. Thomas. It carried Her Britannic Majesty's mails by contract.

Under these circumstances Captain Wilkes determined to seize the Trent and take the commissioners into his custody on the high seas at the first opportunity. He had no doubt as to the right of search, or of his power to seize the enemy's dispatches on a neutral ship, when they were reduced to writing; but he had, perhaps, some doubt as to his right to seize the persons of the commissioners. "These gentlemen were not," he afterwards said in his official report to the Secretary of the Navy, "dispatches in the literal sense, and did not seem to come under that designation, and nowhere could I find a case in point." But, accepting them at their own representations, as accredited diplomatic agents of the enemy, he solved the doubt by regarding them as "the *embodiment* of dispatches."

In the absence of a case in point, this conclusion of Captain Wilkes would have been admitted in the high Court of Admiralty itself as correct, but he weakened it by giving further and untenable reasons in its support. In one point of view he regarded the Confederate commissioners as being the embodiment of dispatches,—as clothed with diplomatic authority; and, therefore, as contraband, unless protected by a Federal passport; while from

another point of view he looked upon them as escaping "conspirators" to whose persons no diplomatic immunity could attach until they had been received by the governments to whom they were accredited. In either view of the case he considered it his duty to capture them. But the former reason only was correct, for if Messrs. Mason and Slidell were to be regarded merely as escaping conspirators who were neither ministers nor militants, there could be no more authority to take them by force off the deck of an English ship than to arrest them on British soil. However, being thus satisfied in respect of the right to seize the persons of Messrs. Mason and Slidell, and detain the British ship if expedient, Captain Wilkes took in a full supply of coal and steamed out of the harbor of Havana on the afternoon of the 2d of November. Ostensibly, he went on a cruise after the Confederate steamer Sumpter, but in reality his object was to take a suitable position on the route of the Trent to St. Thomas, in order to intercept her. The next day, when he was about to board a French brig, the latter ran into the San Jacinto, on the starboard side at the mainchains. This mishap caused considerable delay. The San Jacinto was not injured, but the bowsprit and foretopmast of the brig were carried away. Captain Wilkes took the brig in tow. He put an officer and some men on board to repair damage. Before night he left her with a fair wind within about eight miles of the Havana light. He then went over to Key West, in hopes of finding the Powhatan, or some other United States steamer, to accompany the San Jacinto to the Bahama Channel, in order to make it impossible for the Trent to escape either by night or day. Finding that the Powhatan had left the day before, Captain Wilkes re-crossed the next morning to the north side of Cuba. He communicated with the Sagua le Grande on the 4th. He hoped to receive a telegram from Mr. Shufeldt, our Consul-General at Havana, announcing the time of the departure of the Trent. Receiving no dispatch, the San Jacinto was immediately headed to the eastward. Steaming about ninety miles, she entered the Old Bahama Channel, in sight of the Paredon del Grande light-house. The channel is only fifteen miles wide at this point.

Here, in order to avoid all possibility of escape, the San Jacinto cruises until the morning of the 8th. At 11.40 A. M. of that day the smoke of an approaching steamer is first seen. Concluding that this is the Trent, the San Jacinto takes position to the westward of the entrance, in the narrowest part of the channel. It soon becomes apparent that the approaching steamer is the Trent.

The San Jacinto is now ready to furnish some work for the diplomats of two continents! At 12.55 o'clock the command is given to beat to quarters, hoist the colors, and load the guns. When the two vessels are a mile apart the San Jacinto fires a shot across the bow of the Trent. The latter vessel immediately displays the English colors, but still maintains her speed. She shows no disposition to heave to. Then a shell is fired across her course.

This has the desired effect. It brings her to at once. When the Trent is within hailing distance, Captain Moir, her commander, inquires as to what is wanted. Captain Wilkes replies that he will send a boat. He had already given orders to his executive officer, Lieutenant D. M. Fairfax, to have the second and third cutters fully manned and armed, in readiness to board the Trent, which was then hove to under the guns of the San Jacinto. Lieutenant Fairfax at once proceeds in the third cutter, with a full-armed boat crew and a guard of marines. His instructions are, to board the Trent, demand inspection of her papers, her clearance from Havana, and the list of her passengers and crew; and, should he find Mr. Mason and Mr. Slidell and their secretaries, Mr. McFarland and Mr. Eustis, to make them prisoners and send them on board the San Jacinto. In such case, he is to seize the steamer as a prize. He is to act with all delicacy and kindness. He is to avoid using force if possible. Any dispatches found on the persons arrested, and their trunks and other personal effects, are also to be taken.

At 1.20 P. M. Lieutenant Fairfax comes alongside of the Trent in the armed cutter. He is accompanied by the second engineer and the boatswain. Leaving these officers in the boat with orders to wait until it should become necessary to show some force, the lieutenant goes on board the Trent. He is shown by her first officer to the quarter-deck. There he meets Captain Moir. He informs the captain of the object of his visit. He asks to see the passenger-list. This, the captain declines to produce; whereupon Lieutenant Fairfax says: "I have information that Mr. Mason and Mr. Slidell, Mr. McFarland and Mr. Eustis, have taken passage at Havana for St. Thomas. I shall satisfy myself whether they are on board before the steamer is allowed to proceed." Captain Moir still opposes anything in the nature of a search of his vessel. He persists in his refusal to show the passenger-list or other papers. In a few moments the four gentlemen sought for appear. Lieutenant Fairfax makes known to them his instructions. Mr. Slidell and Mr. Mason protest against such an arrest and disposition of their persons and effects. They refuse to leave the ship unless compelled by the employment of an actual force greater than they can resist. Mr. Eustis and Mr. McFarland unite with them in expressing a like determination.

There is considerable noise among the other passengers at this time. There is talk of resistance. This reaches the officers in the cutter. They repair on board with six or eight armed men. After several unsuccessful efforts to induce the commissioners to go with him peaceably, and being in the meantime re-enforced by the arrival of the second cutter, Lieutenant Fairfax proceeds to execute his orders. By this time the excitement becomes so great on the quarter-deck that the marines and some of the armed boat's crew are ordered aboard. They form outside of the main-deck cabin, where the four gentlemen have gone to pack their baggage. In a few minutes the latter

appear, still persisting that force must be used. Lieutenant Fairfax then calls to his assistance four or five of his officers, and taking hold of Mr. Mason's shoulders, with an officer on either side, they march him in this custody as far as the gangway of the steamer. They place him in the second cutter. Mr. Slidell insists that "considerable force" must be applied to him to get him into the cutter. Therefore three of the officers take hold of him. They lead him to the gangway, hand him over the side, and seat him beside Mr. Mason. The secretaries, Mr. Eustis and Mr. McFarland, after protesting, go quietly into the boat. The families of the commissioners are passengers. Lieutenant Fairfax is instructed by Captain Wilkes to extend an invitation to them to accompany their friends to the United States, and to say to them that all the attention and comforts that could be commanded on the San Jacinto would be freely placed at their service. They are invited. This invitation is declined.

Although Captain Wilkes considered that the successful result of his search, and the opposition offered, would justify the seizure of the Trent as a prize, he decided not to detain her, as she had a large number of passengers on board who would suffer great loss and inconvenience by such action. In concluding his official report of the affair, he said: "Although in my giving up this valuable prize I have deprived the officers and crew of a well-earned reward, I am assured that they are quite content to forego any advantages which might have accrued to them under the circumstances." "I may add," said he, "that having assumed the responsibility, I am willing to abide the result."

At 3.30 P. M. the Trent was allowed to proceed on her voyage. The San Jacinto bore away to the northward and westward with the distinguished prisoners.

The whole affair was managed with dignified urbanity on the part of our officers, in the face of many obstacles and slurring remarks. The admiralty agent in charge of the mails of the Trent, a retired commander in the Royal Navy, was especially rude in his comments on the action of our officer. He threatened that an English squadron would raise the blockade in twenty days after his report of this "outrage" reached home; and that "the Northerners might as well give up, now." The captain of the Trent was reserved and dignified throughout; but some of his officers made very irritating comments to the passengers, evidently intended for the boarding party, such as: "These Yankees will have to pay well for this" — "This is the best thing in the world for the South" — "England will open the blockade" — "We will have a good chance at them now" — "Did you ever hear of such a piratical act?" — "Why, this is a perfect Bull Run" — "They would not dare to do it, if an English man-of-war were in sight."

Here, however, is a different comment on the conduct of our officers:

"UNITED STATES STEAMER SAN JACINTO,
November 15, 1861.

SIR: Before leaving your ship, we think it proper that we should state that since we have been on board of her we have uniformly been treated with great courtesy and attention.

Very respectfully, your obedient servants,

JOHN SLIDELL,
J. M. MASON,
E. I. MCFARLAND,
GEORGE EUSTIS.

CAPTAIN WILKES, *Commanding United States Steamer San Jacinto.*"

Regarding the whole affair in the light of international law — more especially as expounded in England — the only mistake made by Captain Wilkes was in releasing the Trent. He should have taken her before the admiralty side of the United States Court at Key West, for adjudication. There she would, unquestionably, have been condemned as a prize. "He thus," said Mr. Seward in the correspondence which ensued with Earl Russell, "prevented the judicial examination which might have occurred."

The prisoners were brought to Fortress Monroe. The San Jacinto was ordered to refit for service at the Charlestown Navy Yard. The prisoners were retained on board and conveyed to Fort Warren. There they were committed to the custody of the commandant. "The prompt and decisive action of Captain Wilkes," said the Secretary of the Navy in his subsequent report to Congress, "on this occasion, merited and received the emphatic approval of the department; and if a too generous forbearance was exhibited in not capturing the vessel which had these rebel emissaries on board, it may, in view of the special circumstances and of its patriotic motives, be excused; but it must by no means be permitted to constitute a precedent hereafter for the treatment of any case of similar infraction of neutral obligations by foreign vessels engaged in commerce or the carrying trade."

No matter how justifiable this search of the Trent may have been under the law of nations, it was most inopportune. Almost from the outbreak of the war the attitude of the press and people of England had been far from friendly toward the Union cause. The Tory party of that country did not hesitate to urge upon the government a recognition of the Southern Confederacy, when it became apparent that our sectional strife was to be decided by a great war. Many of the leading journals pressed for armed intervention. The blockade of the Southern ports was a severe blow to English trade. France also was beginning to feel its effect. It was feared that there must soon be a great scarcity of cotton. There was danger that

this would lead to a combination of the manufacturing and Tory interests in England. One-sixth of the population of that country depended on the manufacture of this staple. Should our war continue, it was assumed that immense numbers of the people must be thrown out of employment.

Indeed, before the Trent affair, petitions had been addressed to the government urging it to break the blockade. Liverpool merchants corresponded with Earl Russell as early as August, 1861, in regard to fitting out a fleet of merchant ships to trade with New Orleans and other cotton ports, under the convoy of British cruisers, or the protection of their own guns. "We may rely upon it," wrote a correspondent in respect to the threatening aspect of affairs, "that British merchants and manufacturers are chafing under the broken commerce with America and the present balance of exchange, as they have not chafed before in our generation. They are sweating every gold guinea they pay over to us now with a punching oath. The *Daily News* pours good Christian oil upon the situation; but we must remember that where five British voters swear by the *Daily News*, twenty-five swear by the *Times*. No matter what may be the sympathies or the humanities of the Shaftesburys of England, we say now, as we have said before, that the very moment when it shall appear to the government that the public tranquillity is more endangered, and the public purse more depleted by the existing cotton embargo than they would be by open hostilities, that very moment the government will join France in breaking the Southern blockade, and the Derbys, and the Russells, and the Broughams will say 'amen.' England is before all things English. Her humanities are splendid, but they look first to the beef and the breeches of John Bull."

The Morrill Tariff, which was adopted only as a measure for raising a war revenue, tended to reduce our importation of manufactures from France as well as England. There was great distress in the textile centres of both these countries. The French navy had never before this period attained to such great strength, and England still considered herself mistress of the seas.

Already there existed diplomatic complications over the arrest of British subjects to whom quarters were assigned in Fort Lafayette and *habeas corpus* was denied. Lord Lyons' note in their behalf, in which he cited our Constitution against such executive action, had just been answered by Mr. Seward to the effect that the safety of the people had become, in the present emergency, the supreme law, and that the foreign denizen as well as the citizen must submit to that law. Commenting upon such arrests, the French journals began, with the sarcasm of historical reminiscence, to call Fort Lafayette "the American Bastile."

This was the condition of our foreign relations when Captain Wilkes by force and arms boarded the Trent, and seized, as contraband of war, these ambassadors. It needed but such an affair to make England actively intervene in our struggle, had her government then yielded to the popular clamor

for swift and vigorous action. For the moment English interests seemed blended with patriotic indignation over the "affront" offered to the British flag on the high seas. The most liberal-minded Briton, even the most radical of the anti-slavery enthusiasts, joined in the public demand for satisfaction. Lord Shaftesbury declined to attend a peace meeting at Exeter Hall, "lest," as said at the time, "it might weaken faith in the integrity of national action."

Here was an occasion for statesmanship. We were in no mood to recede a step or to apologize to any foreign power on earth, and least of all to England. We were sore over the exuberance of her Southern sympathy. We had expected that, with her anti-slavery record and professions, she would be the staunch friend of the United States. But was this feeling reasonable on our part? Had not our government been constantly asserting that slavery was not the question in issue, so far as the North was concerned; and that we sought only to re-establish national authority over "the Union as it was"? Was not our government, in respect to this question, the true exponent of the Union sentiment? At that time England might well have said to the world that honors were easy in regard to slavery on the other side of the Atlantic.

There was dense ignorance in the English mind as to our feelings, strength, and resources. There was still greater density of ignorance in that regard in most of the other European countries. The English press was constantly asserting our inability to restore the Union. At this juncture foreign intervention would have been inevitable if American diplomacy had been unequal to the task before it.

Mr. Seward well knew that there was in our own estimation and in the estimation of every cabinet of continental Europe an honorable mode of adjusting the Trent imbroglio. England, of all the European powers, was the historic advocate of the right of search. On the other hand, we fought her not without success fifty years before, in asserting our doctrine of the freedom of the seas, and the rights of neutrals. As Captain Wilkes had acted on his own reponsibility, could not Mr. Seward gracefully disavow his act, as contrary to time-honored American policy? Had not England, alone, insisted upon maintaining in full vigor the old law of search? Was she unselfish in this? She was strong at sea; she was a marine aggressor. In that character had she not acquired colonial possessions in the four quarters of the globe? Her policy was to maintain an overpowering naval force with which to overawe the seas. We were not afraid of her on sea or land. A few of her statesmen, and a few of our own, who remembered the War of 1812, knew that our power was capable of wonderful development. England had been building an ironclad three years prior to 1861, at an immense outlay of money for that time. We could show her how to build a Monitor in one hundred days. That floating battery could have held her own against the British Warrior, or any of the rams in England's dock-

yards. In naval power, and in the capacity for increasing it, we were more than her equal. We had the best guns of the day, and unlimited war material. We were better able then to cope with her on the seas than we are now, or shall be in another decade. When this affair occurred, Europe was in a ferment over the ambitious schemes of her monarchs, and Russia was our friend. The Czar and his people still rankled over the unholy Anglo-French alliance with the "Crescent" against the "Cross." We were three to one against the South in men, and a hundred to one in materials of war, wealth, and resources. Tens of thousands of brave Irishmen were enrolled in our army corps, everywhere carrying our flag to victory. A war with England would have been hailed with delight by hundreds of thousands of their brethren who would flock to our standard eager to meet their country's hereditary foe. Would not Ireland have been aflame with rebellion had England dared to press upon us the gage of battle?

Whatever the unthinking, passionate masses of the people of England or of our own country may have thought, there were statesmen like Seward and Crittenden, and Palmerston and Russell, who knew that the United States could be a giant in its wrath if fully aroused. We did not desire a foreign war at that time; but the English Cabinet knew that if pushed hard we would not shrink from it. It was, therefore, a foregone conclusion that the Trent affair would be settled by diplomacy and not by arms. To say that this peaceful result was fully expected by the English Cabinet or our own, would be incorrect. Both bodies were probably uncertain of the outcome of the correspondence that ensued; but there must have been a presentiment that it would not be war. A peaceful settlement must have been suggested by that high intuition that does not stop to reason. A war with England would have been terrible; but it would have brought out a victor's strength on our side.

Mr. Seward treated this affair in a manner worthy of his great reputation as a statesman, and honorable to the Nation. He was soon master of the situation. At this time the writer was more inspired by enthusiasm than now, at a later period of his life. He thought the honor of our flag demanded that we should retain the prisoners. It was not a domestic quarrel. It was foreign, and his spirit was fervid. He recked not of consequences. At that time he considered it his duty to impress on Congress the fact that the law of nations would uphold us in this course. He was for yielding nothing to Great Britain. "Nothing to her arrogance, passion, or pride, when we were so clearly in the right." The following extract from his reply to Mr. Vallandigham's prediction that these men would be surrendered before three months "in the face of a threat," will enable the reader to see where the writer stood on that issue. And Mr. Seward's course will show how much wiser it was to forego the advantage of legal technicalities and put national policy on a broader basis:

"Mr. Cox. I hope that the prediction of my colleague will never be fulfilled. I have some faith in the sagacity of our Secretary of State, too much faith in the honor of the people of the country, to believe that they will ever permit their government, in a case of clear right, to so dishonor them. The honor of a nation is its credit; its credit is its commerce; its commerce is its cash; and its cash brings with it the comforts and refinements of civilization. Where you touch the cash, you have a powerful argument with any nation. The pecuniary argument is, with the majority, generally stronger than the moral argument. When moral influences combine with pecuniary, they are irresistible. The people of the country, however, will stand, as on a point of honor, by the rights to which they are entitled on land or sea. They will look with jealousy on anything that has a tendency toward impairing their nationality, either at home or abroad. When they fail in this, they will deserve expatriation from this, the cushioned part of God's footstool, given in high trust to their keeping.

"I was about to state the proposition on which I believe the government can plant itself in this matter. I do not propose now to argue it elaborately. I will cite but few authorities. The public newspapers have been teeming with authorities, some relevant and some irrelevant.

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"We are, sir, in this country too sensitive of foreign opinion. Mr. Seward said well when he told Mr. Dayton (our minister to France) that it was no business of our ambassadors to overhear what the foreign press or foreign ministers said about us. Our duty was to maintain our Union in its integrity, and our position as a leading power among mankind, regardless of the derision and hostility of kings and aristocrats abroad. I know that we naturally dislike to have our institutions misrepresented, and our destruction predicted. There is much in the old Spanish motto, '*De mi rey, solo yo*' — no one shall speak of our king except ourselves; no one shall speak of our sovereignty but ourselves. I would that we were more indifferent to the poisoned shafts of foreign malice, barbed as they are by aristocratic hate and pretension. We have been freely scorned by nations whose moral standard is measured by their commercial profit and loss, whose national honor depends upon a cotton-pod, whose philanthropy has been an intermeddling Phariseeism, and whose complacent neutrality, so promptly assumed, seems to glory in the humiliation of a kindred and Christian nation, without regret or sympathy, because of its splendid illustration of commercial grandeur, and defiant adherence to democratic government.

"Let us, sir, pursue our duty to the age and the Nation with unruffled composure and determined will. Heaven does not desert the undismayed. Even though there may be foreign troubles impending, for us to despair now is to die. I like the motto of the old Romans, which I have, in this period of our trial, often commended to my constituents, 'never to despair of the

Republic!' They used to write it upon the lintels of their doors, and to emblazon it upon their temples. It was upon the lips of the people, it was in the mouths of their orators, 'never to despair of the Republic'; and when a Roman general, even in the agony of his defeat, gave out the inspiring words, 'never despair of the Republic,' a Roman Senate voted him a triumphal entry within her imperial gates.

"Let us fling aside the burden of our national woe, lament nothing of the irrevocable past, dare all that is just and constitutional; make no cruel and disastrous diversions from the great object of rescuing our nationality; crush as we would a nest of adders those who would impair its proportions as well as those who would turn us from that object to other and ignoble objects, involving fresh divisions, broken armies, social revolutions, servile insurrections, perpetual penalties, and eternal hates; and move, each and all, heart, soul, body, men, means, munitions, intelligence, and patriotism, to the grand and only object — the restoration of our dismantled Union. Thus feeling and thus acting, we may emerge from this strife of struggling states; and, like the fabled demigod, receive added strength from our very prostration. If, sir, we observe the rules of right and honor in regulating our conduct abroad, if we observe the object of the war that is now upon us, as the President proclaimed it to the people, as the soldiers of the Republic understand it, as the House resolved it in the Crittenden resolutions, and as the Constitution and the Union demand, we may be assured that our martial resources, the intelligence and valor of the masses, the very physical geography of the country, and God himself, will fight for us."

But an older hand was at the helm of the State. Mr. Seward made this affair the occasion of vindicating the freedom of the seas on time-honored American principles, which, up to the good day of November 29, 1861, the British Government had declined to admit.

On that day the British Cabinet convened to deliberate on the steps which should be taken "to obtain satisfaction for the recent outrage on the British flag." The conclusion reached was that the act of Captain Wilkes in "seizing passengers on board a British vessel and carrying them forcibly away, was a clear violation of the law of nations, and one for which reparation must be demanded." This was the result heralded to the public the following morning in the London *Times*. The point made was that, at most, Messrs. Mason and Slidell were but civil servants of a hostile power. They were traveling from one neutral port to another in a neutral vessel. In such a case, no naval officer of the other belligerent had discretion to seize them until the contraband character of their employment had been established by a prize court.

On the day following the Cabinet meeting, Earl Russell addressed a dispatch to Lord Lyons, the British Minister at Washington. It gave him offi-

cial information that Her Majesty's Government, bearing in mind the friendly relations that had long subsisted between Great Britain and the United States, were willing to believe that, in respect to the "aggression" committed, our naval officer was not acting according to his instructions, or else, that he "greatly misunderstood them." Her Majesty's Government, therefore, trusted that the United States Government would, of its own accord, offer to the British Government such redress as would satisfy the British nation. This redress was the liberation of the four gentlemen, and their delivery to the British ambassador, in order that they might again be placed under British protection; and the tender of a suitable apology for the "aggression" which had been committed. If these terms were not proposed by Mr. Seward himself, Lord Lyons was instructed to propose them to him. The instructions were duly carried out.

Mr. Seward replied to Lord Lyons on the 26th of December. He observed the customary diplomatic style. He commenced by saying: "My Lord: Earl Russell's dispatch of November 30th, a copy of which you have left with me at my request, is of the following effect, namely," etc. The secretary then went on to review the contents of the note. He stated that it had been submitted to the President. He presented the facts from his own sources of information. He accepted the suggestion of the British Cabinet. He assured his lordship that no instruction had been given to Captain Wilkes to arrest the four persons named.

Mr. Seward was entirely correct in this statement. Captain Wilkes had acted solely on his own responsibility. He had acted according to his own views of right and duty. But this was not said with a view of shirking any responsibility for the consequences of the act. "The British Government," said Secretary Seward, "will justly infer that the United States not only have had no purpose, but even no thought, of forcing into discussion the question which has arisen, or any other which could affect in any way the sensibilities of the British nation." "Your lordship will now perceive," continued Mr. Seward, "that the case now before us, instead of presenting a merely flagrant act of violence on the part of Captain Wilkes, as might well be inferred from the incomplete statement of it that went up to the British Government, was undertaken as a simple, legal, and customary belligerent proceeding by Captain Wilkes, to arrest and capture a neutral vessel engaged in carrying contraband of war for the use and benefit of the insurgents."

Mr. Seward concluded his statement of the case by asserting that the persons taken from the Trent were citizens of the United States. This was a gentle allusion to England's course in regard to her claims of jurisdiction over British subjects found in neutral ships in days gone by, when she had asserted the right to take them not only off our merchant vessels but out of our ships of war, by force and arms. He then came to the issue.

"The question before us is," said Mr. Seward, "whether the proceeding was authorized by and conducted according to the law of nations. It involves the following inquiries:

"First. Were the persons named and their supposed dispatches contraband of war?

"Second. Might Captain Wilkes lawfully stop and search the Trent for these contraband persons and dispatches?

"Third. Did he exercise that right in a lawful and proper manner?

"Fourth. Having found the contraband persons on board and in presumed possession of the contraband dispatches, had he a right to capture the persons?

"Fifth. Did he exercise the right of capture in the manner allowed and recognized by the law of nations?

"If all these inquiries," said he, "shall be resolved in the affirmative, the British Government will have no claim for reparation."

Discussing these questions, *seriatim*, from the law of nations, especially as read from British authorities, our Secretary of State decided the first four inquiries in the affirmative. It was only in respect to the fifth question that any difficulty of solution occurred to him: "The books of law were dumb" in regard to it. He proved that a belligerent power has the right to prevent "an officer, soldier, sailor, minister, messenger, or courier of the enemy from proceeding under a neutral flag from one neutral port to another in his unlawful voyage, and reaching the destined scene of his injurious service." But, on the other hand, it was admitted that the person captured might be innocent of such contraband character. Hence, if he were, he would be entitled to the protection of the neutral flag. In such case, said Mr. Seward, the only way was to convey the suspected person and the suspected vessel into port, and there try the question whether the vessel was acting contraband: "You can prove it to be so by proving the suspected men to be contraband; and the court must then determine the vessel to be contraband." Still there had been no judgment for or against the captured persons. "One may well express," said the Secretary of State, "his surprise when told that the law of nations has furnished no more reasonable, practical, and perfect mode than this of determining questions of such grave import between sovereign powers."

So much for the legal aspect of the case. Here Mr. Seward declined to take advantage of the law that justified the act complained of. "As Captain Wilkes," said he, "from combined sentiments of prudence and generosity released the Trent, and thus prevented this circuitous mode of a judicial settlement of the contraband character of the persons arrested and their dispatches"; as "the claim of the British Government was not made in a discourteous manner; as this government was not tempted at all by suggestions that cases might be found in history where Great Britain refused to yield to other nations, and even to ourselves," claims like that which was now be-

fore him, our Secretary of State, putting behind him "suggestions of this kind," preferred to express his satisfaction, that by the adjustment of the present case "upon principles confessedly American," and yet, as he trusted, mutually satisfactory to both nations, "a question would be finally and rightly settled between them, which heretofore had exhausted not only all forms of peaceful discussion but also the arbitrament of war itself, for more than half a century alienated the two countries from each other, and perplexed with fears and apprehensions all other nations." In conclusion, Lord Lyons was informed that the four persons in question were then held in military custody at Fort Warren, in the State of Massachusetts, and that they would be cheerfully liberated whenever the British ambassador would be pleased to indicate a time and place for receiving them.

There was not one word of apology in Secretary Seward's letter. He stated the facts. He gave the British construction of the law of nations bearing on them. He said: "I trust I have shown to the satisfaction of the British Government that this government neither meditated nor practiced any deliberate wrong in the transaction to which they have called attention; and, on the contrary, that what has happened has been simply an inadvertency, consisting in a departure by the naval officer [alluding to the release of the Trent, by which a judicial adjudication of the question of contraband was prevented], free from any wrongful motive, from a rule uncertainly established, and probably, by the several parties concerned, either imperfectly understood or entirely unknown." "For his error," said Mr. Seward, "the British Government has a right to expect the same reparation that we, as an independent state, should expect from Great Britain or from any other friendly nation in a similar case."

Our flag was not lowered in the Trent affair. Mr. Seward expressly waived all the advantages of the British precedents and doctrine of search. He placed the release, to quote his own words, upon "principles that constitute a large portion of the distinctive policy by which the United States have developed the resources of a continent, and, thus becoming a considerable maritime power, have won the respect and confidence of many nations." He alluded to the doctrine laid down in 1804 by James Madison, when Secretary of State in the Administration of President Jefferson, in the instructions given to James Monroe, our minister to England at that time. The British Government was well informed in regard to the American doctrine. It was asserted in our earliest diplomacy. It was spread to the breeze from the mast-head of one of our frigates in the War of 1812 in the shape of a banner with this device: "Free Ships and Free Trade." The doctrine was that the ocean ought to be the highway of nations, free to commerce and non-combatants. Under this banner the gallant David Porter made his celebrated cruise in the Essex that covered our navy with glory. This doctrine included the text, that "Wherever property found in a neutral vessel is sup-

posed to be liable on any ground to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor; but be carried before a legal tribunal where a regular trial may be had, and where the captor himself is liable to damages for an abuse of power." It covered the case of persons also. No naval officer ought to be permitted to usurp the functions of a maritime court. It was to maintain this doctrine against the arbitrary searches of American ships by British naval officers, and the arbitrary taking from them of American citizens to be pressed into British service, that we declared war against England in 1812, when we had not a score of ships of war, and that power had over nine hundred armed vessels and one hundred and forty thousand men in her naval service.

Of course, the demand of the British Government could not fail to elicit public discussion. The press teemed with editorials and communications. These took their hue from the international law which fully justified the act of Captain Wilkes. The House of Representatives gave him a vote of thanks. The Secretary of the Navy warmly approved of his conduct. If the popular wish and the desires of the popular branch of the Congress had been deferred to by Mr. Seward, there would have been no surrender of the prisoners.

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The visitor who desires to see the celebrated places in and around Washington City, first directs his eye down the waters of the Potomac toward Mount Vernon and its mausoleum. Then he seeks the Capitol. After exhausting that interesting object from crypt to dome, he visits the White House as its co-ordinate, and then the Departments, which are its subordinates; and the Monument which now dominates all. Perhaps the Smithsonian Institution and its museums allure his eye; and then he inquires for the Van Ness Mansion, or the Duddington House,—for these are landmarks of the earlier years of this changed and changeful metropolis. Then he seeks the Army Medical Museum — once a theatre — whose most tragical association is that of the assassination of Abraham Lincoln. He takes a glance across the street at the house where the great President died. By a system of mnemonics not at all illogical, he recalls the evening of the 10th of April, 1865. Washington was then rejoicing with illuminations and victory. The war had closed. Four days of uninterrupted joy filled every heart. Then, the coward's pistol and dagger blanched every cheek, and stopped the heart and hope of the entire Republic.

By a similar association the visitant turns to an old and solid brick structure on Lafayette Square. It is now the Commissary-General's office. It was once a club-house. During the time of this famous Trent affair, it was occupied by the Secretary of State, William H. Seward.

The writer has one association belonging to this mansion. It is not that of the dreadful night when assassins struck down the great secretary; but it

is one of an earlier and more delightful quality. It is one in strange contrast with the gloom which makes this mansion sombre in the calendar of crime, and famous in the annals of local history.

Being upon the Foreign Affairs Committee of the House of Representatives when the Trent affair occurred, the writer attended a dinner given by the Secretary at this then happy home. This was at a time when men held their breath in trepidation, lest Great Britain and the Powers of Europe might make the Trent matter the pretext to consummate their recognition of Southern independence. Some feared that a disparted Republic would have to give way before the jealous encroachments of those who sought to divide our country as they endeavored to imperialize Mexico.

The delightful interchanges of thought between the persons at that dinner are not so important as the fact that transpired toward its close. After the ceremonies of introduction, and the tenders of politeness to Mrs. Frederick W. Seward and Miss Olive Risley — the adopted daughter of the house — the guests who had been received by these ladies moved to the hospitable dining-hall. On the right of Mr. Seward was seated burly English heartiness incarnated in Mr. Anthony Trollope, the novelist. His presence was almost a surprise, if not a satire on the occasion, as it concluded. At the other end of the table sat John J Crittenden. He was then chairman of Foreign Affairs in the House. The author was on his right, as he was nearer by sympathy to him than others on the committee. He used to say to the writer: "My young friend, when I was of your age, I did all the work and the older members received the merit marks. You may do the work, sir, and I will take the credit." With his grave humor and hearty confidence, he was wont to parcel out to the writer no inconsiderable quantity of the work of this most arduous of committees. Thus it happened that a bill for the relief of the owners of the Perthshire, seized by us, came to the hand of the writer for a report. The chairman was not a little astonished when he found that his subordinate, on the 17th of December, 1861, was dilating on the Trent case, and quoting Robinson's Reports to justify the detention of the contraband plenipotentiaries, upon British precedents and conduct.

The dinner was proceeding with the usual social murmur of chat and vivacity of repartee. Bonbons of good-will were tossed about from Senator to Secretary, and from minister to member. Governor Crittenden was regaling the ear of his neighbor, between the soup and the sherry, with an account of the War of 1812, and his experience as a Kentucky soldier in that war. He had, while serving as aid-de-camp on the staff of the general commanding the Kentucky troops, carried his sword through the Columbus, Ohio, District. As that part of Ohio was represented by the writer, the interest grew apace. All present perplexities were forgotten in the revival of the old prejudices against Great Britain, the incidents of the Canadian border, and of Hull's disgraceful surrender. The dinner progressed. One incident led to another,

until Mr. Seward, with a brusqueness entirely prepense upon his part but surprising to us, drew the attention of all by saying:

"GENTLEMEN: There is only one man in this country to whom I allowed unrestricted communication with Jefferson Davis, since the war. I never asked him what he wrote to Mr. Davis. I trusted his honor and loyalty. He is here. I drink the health of Mr. Crittenden!"

Mr. Crittenden, throwing back his shoulders, as was his custom when pleased or excited, said:

"MR. SECRETARY: I never told you what I wrote to Jeff. Davis. I will tell you now, sir. I have two sons in the war — one is a Union and the other a Confederate general. They are both, of course, dear to my heart. I wrote Mr. Davis, 'for God's sake, sir, since you have the gallantry of one of my boys on your side, don't send him to or against Old Kentucky.'"

This little by-play sent out a gleam of pleasure that sparkled around the board. It was intended by Mr. Seward to placate Mr. Crittenden for what was to follow, and it did. Then Mr. Seward, with his exquisite diplomatic *savoir-faire*, said, looking around the board:

"I think I must now trust my guests, as I trusted Mr. Crittenden. I will divulge to you a secret. To-day, the order was issued to release Mason and Slidell."

A dead pause ensued! All awaited the response of the venerable and patriotic chairman of Foreign Affairs. He was known not to be partial to England. He was not entirely cordial with the Confederate ambassadors. With a puzzled look of anger and chagrin, the great Kentuckian hesitated for a moment. He seemed held back by the hand of courtesy. He then brought down his dainty glass of sherry with a sudden crash upon the table. The little fragments flew about his plate. The golden contents bejeweled the writer's investments. Then pausing another moment, half ironically and half jocosely, he exclaimed:

"A good riddance, sir! You sent them away none too soon, sir! They were doing much mischief here"; and, regardless of the occasion, a little murky cloud of profanity dimmed the atmosphere about the table. Never, since the days of good old Uncle Toby, was emphasis more excusable.

Then the Secretary gave us the observations which appeared in the *National Intelligencer* the next morning; and which this chapter is intended to illustrate.

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It was not until nine days after the release of the prisoners that the public were brought to realize what a great diplomatic victory Mr. Seward had won. The demand of the British Government had no foundation in international law. It was against British precedent. It harmonized only with distinctively American doctrine. It would have come well from our government had Great Britain been the aggressor. Mr. Sumner, than whom no one was

better qualified to discuss the true merits of Mr. Seward's course, delivered a masterly speech in the Senate on the 9th of January, 1862. He set the public mind at ease by showing that we had emerged from the impending trouble not only with honor, but by putting England in a position in which neither former diplomacy nor, as Secretary Seward said, "the arbitrament of war" itself, had placed her.

In the Napoleonic wars, when England had closed the coast of Europe from the Elbe to Brest by a paper blockade, and her own ports were similarly closed, our ships were everywhere subjected to the most arbitrary searches by British and French cruisers. Even our war vessels were fired into on our own coast. We were treated with the utmost contempt. The British press and British officers openly boasted that we "could not be kicked into a war." —We taught them a wholesome lesson on this point afterwards.— We had always refused to recognize the right of any belligerent power to take from an American neutral ship, under the right of search, "any description of persons except soldiers in the actual service of the enemy." Since the establishment of the United States as an independent government, our constant endeavor had been to get Great Britain to agree to this doctrine, but without success. Mr. Sumner applied this historic fact in his grand speech:

"In the struggle," said he, "between Laertes and Hamlet, Hamlet was armed with the rapier of Laertes, and Laertes was armed with the rapier of Hamlet. And now, on this sensitive question, a similar exchange has occurred. Great Britain is armed with American principles, while to us are left only those British principles which throughout our history have been constantly, deliberately, and solemnly rejected." But it was only for a moment that Mr. Seward fenced with the rapier of Earl Russell. He soon threw it aside as a mere foil. He recovered his own American weapon. He saluted his disarmed antagonist. Great Britain bowed to a rule of conflict for which we had so long contended. As Mr. Sumner aptly said, "We did not even stoop to conquer."

Great Britain had at last admitted our doctrine. The high seas were free to neutral ships in the transportation of all persons excepting only "soldiers in the actual service of the enemy." Hence, Messrs. Mason and Slidell were permitted to re-embark in their fruitless mission on an ocean whose waters would be forever after free from unlawful search and British arrogance. Where our humiliation had been sought we won the laurels of victory, and all the cabinets of continental Europe applauded.

CHAPTER XV.

THE CONFEDERATE AND OTHER GOVERNORS.

ISHAM G. HARRIS, OF TENNESSEE — HEADING THE LIST OF FIVE EXECUTIVES — HIS OFFICIAL TRUSTS — HIS CONGRESSIONAL SERVICE — GOVERNOR FROM 1857 TO 1865 — HIS ENERGY AND ABILITY — HIS EXILE, RETURN, AND PREFERMENT — SERVICE AND POSITION IN THE SENATE; JOHN LETCHER, OF VIRGINIA — HIS EARLY LIFE — HIS SERVICE IN VIRGINIA AND IN CONGRESS — WATCH-DOG OF THE TREASURY — HIS ACTION AS GOVERNOR DURING THE CIVIL WAR, AND HIS DEATH — SAM: HOUSTON — HIS ECCENTRIC LIFE AND HIS COURAGEOUS CONDUCT — THE BATTLES OF TEXAS INDEPENDENCE — HIS SERVICE TO ANNEXATION — GOVERNOR AND SENATOR — HIS HESITATION AS TO SECESSION — JOSEPH E. BROWN, OF GEORGIA — GEORGIA'S RESOURCES — HER WISDOM AT THE END OF THE WAR — HER FOREMOST GOVERNOR — HIS BUSINESS ENERGY DURING THE WAR AND AT ITS END — HIS CONTESTS WITH THE CONFEDERATE GOVERNMENT — GOVERNOR VANCE'S LETTER TO HIM — CONSCRIPTION DEFIED — HIS CHARACTER — HIS CHARITIES — HIS PRESENT SERVICE — ZEBULON B. VANCE, OF NORTH CAROLINA — BORN AMONG THE MOUNTAINS — REPRESENTATIVE OF BUNCOMBE — HIS LOVE OF BOOKS — THE BASIS OF HIS EDUCATION — HIS UNCLE'S LIBRARY — HIS EXPERIENCES IN CONGRESS AND IN WAR — HIS EXECUTIVE ABILITY AND INTEGRITY.

IN some of the preceding chapters there has been more emphasis laid upon abstract theories and polities, than upon the personal administration of affairs and the actual legislation which the Executive branch has sought to carry out. But a history of these stirring times, in a Federal sense, would be incomplete without some reflections upon the constituent elements of the Federal system, namely, the states and their exponents. These exponents were their executives. A list of the Confederate governors of 1861 is as follows: Alabama, Andrew B. Moore; Arkansas, Henry M. Rector; Florida, John Milton; Georgia, Joseph E. Brown; Louisiana, Thomas O. Moore; Mississippi, John J. Pettus; Missouri, Claiborne F. Jackson; Kentucky, Beriah Magoffin; North Carolina, John W. Ellis; South Carolina, Francis W. Pickens; Tennessee, Isham G. Harris; Texas, Samuel Houston; and Virginia, John Letcher.

Each of these Confederate governors, — except Governor Ellis, of North Carolina, who died and was succeeded by H. T. Clark, the Speaker of the State Senate, and General Sam : Houston, of Texas, who was succeeded by F. R. Lubbock,—remained in office during 1862 and 1863. Several of them served during 1864. One of them, John Milton, of Florida, served until the surrender, in 1865.

The governors of Kentucky and Missouri are included in this list, from the fact that one took a prominent part as a Confederate general, while the other was a Unionist, though not favorable to aggressive war measures. He resigned in 1862. He was succeeded by James F. Robinson, a Unionist.

In 1864, the Confederate governors were: Alabama, Thomas H. Watts; Arkansas, Harris Flannegan; Florida, John Milton; Georgia, Joseph E. Brown ; Louisiana, Henry W. Allen ; Mississippi, Charles Clarke ; North Carolina, Zebulon B. Vance ; South Carolina, Milledge L. Bonham ; Texas, Pendleton Murrah ; and Virginia, John Letcher.

Missouri, Kentucky, and Tennessee had ceased, in 1864, to have resident Confederate governors. The above names include those who were in office at the time of the surrender at Appomattox.

In 1863, Francis H. Pierpont was elected governor of Virginia, by the people inhabiting the western counties. When these counties formed a constitution for West Virginia, Arthur I. Boreman was chosen governor.

Michael Hahn was elected governor of Louisiana by the so-called loyal people, in February, 1865. In Tennessee, William G. Brownlow was elected in 1865, to succeed the provisional, or military governor, Andrew Johnson, appointed by President Lincoln.

The provisional governors appointed by President Andrew Johnson were as follows: North Carolina, William W. Holden; South Carolina, Benjamin F. Perry; Georgia, James Johnson; Alabama, Lewis E. Parsons; Mississippi, William L. Sharkey; Florida, William Marvin; and Texas, Andrew J. Hamilton.

President Johnson recognized Michael Hahn as elected by the people, to be governor of Louisiana.

William G. Brownlow was elected in like manner as governor of Tennessee, Francis H. Pierpont as governor of Virginia, and Isaac Murphy as governor of Arkansas.

The military commanders under the Reconstruction acts of 1867 were named on the 11th of March, 1867, by the order of Adjutant-General E. D. Townsend. The order is number 10. It reads thus :

" In pursuance of the act of Congress, entitled ' An Act to provide for the more efficient government of the rebel states,' the President directs the following assignments to be made :

" First District, State of Virginia, to be commanded by Brevet Maj.-Gen. J. M. Schofield. Headquarters, Richmond, Virginia.

"Second District, consisting of North and South Carolina, to be commanded by Maj.-Gen. Daniel E. Sickles. Headquarters, Columbia, South Carolina.

"Third District, consisting of the states of Georgia, Florida, and Alabama, to be commanded by Maj.-Gen. George H. Thomas. Headquarters, Montgomery, Alabama.

"Fourth District, consisting of the states of Mississippi and Arkansas, to be commanded by Brevet Maj.-Gen. Edward O. C. Ord. Headquarters, Vicksburg, Mississippi.

"Fifth District, consisting of the states of Louisiana and Texas, to be commanded by Maj.-Gen. Philip H. Sheridan. Headquarters, New Orleans, Louisiana."

By an order dated March 15, 1867, Maj.-Gen. George H. Thomas, by his request, was relieved from the duty of commanding the Third District. Major-General John Pope was assigned to that district.

General Schofield having been appointed Secretary of War, was succeeded in the command of the First District on the 2d of June, 1868, by Major-General Stoneman. On March 5, 1869, an order was issued for the removal of General Stoneman, and Maj.-Gen. E. R. S. Canby was appointed to succeed him. But he was not relieved until March 31. In the meantime he removed Gov. H. H. Wells and assumed the functions of the civil government. On the 31st, General Stoneman was relieved by Gen. A. S. Webb, who held the command until General Canby could arrive. General Webb's first act was to restore Wells to the office of governor. General Canby took command of the district on the 20th of April.

General Sickles was removed from the command of the Second District on the 26th of August, 1867, and was succeeded by Brevet Major-General Canby. On Dec. 28, 1867, General Pope was relieved from the command of the Third District, and Maj.-Gen. George G. Meade was appointed to succeed him. Dec. 28, 1867, General Ord was relieved from the command of the Fourth District, and Brevet Maj.-Gen. Irwin McDowell was appointed to succeed him. On Nov. 29, 1867, Maj.-Gen. W. S. Hancock was appointed to succeed General Sheridan in the command of the Fifth District.

In all these changes there will appear much to ponder over. The executive was not in harmony with the legislature; and the attempt to resurrect order out of chaos by military rule seems to have been a great fiasco.

Sketches of a few of these governors and their service are not here inappropriate. They were all men of ability, but none more so than Governors Harris, Letcher, Houston, Brown, and Vance. No one of this galaxy of executive intelligence and determination was more sagacious and courageous than the governor of Tennessee, whose portrait is at the head of the five Confederate governors in plate three of the volume.

It has been asserted that what Governor Andrew was to Massachusetts, or even a more energetic man, Governor Morton, of Indiana, was to his state and to the North, that was Isham G. Harris to Tennessee and the South. At no time did he shrink from the performance of any duty, however perilous, and from no responsibility, however fateful.

Isham G. Harris was a Representative from the State of Tennessee, in the Thirty-first Congress, in December, 1849. He was then in the fresh vigor of young manhood. He impressed his associates with that ripeness of judgment, energy of action, and capacity for labor which mark his subsequent career. The successors of prominent and efficient members in the National Legislature have a trying ordeal. They arrest the critical attention of the friends and admirers of their predecessors. Contrasts and comparisons are made. Much more is expected of them than of the general body of Representatives. Isham G. Harris came from that district known as "Cave Johnson's old district." Mr. Cave Johnson was then a member of President Polk's Cabinet. He had obtained, in a long service as a member of Congress, a character second to none for honesty and ability. Young Harris stood the crucial test of comparison. He was assigned high rank. Having secured the esteem of his constituents, he was by them again returned to Congress. Determining to change his residence, although urged by his constituency and nominated by his party, he declined to be returned to the Thirty-third Congress. In 1853, he removed to the city of Memphis. It was then, as now, one of the leading centres of commerce on the Mississippi River. He removed there with a view of practicing law. At the bar of that city he took rank with its leading advocates. The character he had made in politics as a popular speaker and sound reasoner, made him the Presidential Elector for the state at large in 1856.

No state in the Union ranks higher than Tennessee for the number and high character of its popular speakers. It was from the "college" of the "stump" that Polk, Grundy, Bell, Gentry, Jones, Henry, Heiskell, and Johnson sprang. These were men of elevated rank among the statesmen of the Union. In the canvass of the state, made by Isham G. Harris in 1856, with ex-Governor Neil S. Brown as his opponent, he made an indelible impression on the people of that commonwealth. So successful was he as a party leader and speaker, that he made Tennessee, whose political party status had, since 1836, been more or less doubtful, a fixed Democratic state. He was elected governor in 1859, and again in 1861. Here was his field! He filled that office from October, 1857, to the close of the Civil War. He displayed executive ability of the very highest order. It was during his second term that the great Civil War began. In his executive communications to the legislature are to be found the ablest and most succinct, as well as the most intelligent presentation and justification of the reasons for the action of the seceding states. Whatever may be thought as to this,

— whether his reasoning was or was not sound, — history must say that in the military labor demanded of him as governor of a seceding state lying on the border line, he showed such superior energy as to entitle him to the first position among the giants of that day of giants, North and South. Peculiar difficulties lay in his way. Tennessee was without arms or military organization at the time of her separation from the Federal Union. There was a large element of disaffection to his policy. It existed in the eastern portion of the state. The northern border of Tennessee — of about four hundred and fifty miles — from its exposed condition invited approach from points where the resources of the Federal Government were greatest, as did also the western border on the Mississippi River. The promptness, zeal, and skill which he manifested in preparation to meet this state of things showed that he merited the character claimed for him. Indeed, this was even more strikingly manifested in subsequent acts of that eventful epoch.

When the curtain went down on that drama, Governor Harris, for the most patriotic of reasons — that of promoting the internal peace of his native state — left the United States. He went first to Mexico, and thence to England. In 1867 he returned. He at once resumed the practice of law at Memphis. To his profession and the reparation of his private fortunes, he gave exclusive attention, and with marked success. However, as a part of the current history of the state, it may be said that until the political revolution of the state in 1870, under the lead of Governor Senter, the great body of the white citizens of the state were disfranchised for their sympathy or identification with the Confederate States. Besides, under the amendments to the Federal Constitution, Governor Harris was under political disabilities. At the earliest opportunity after the political emancipation of the white citizens, the high esteem in which he was held was made manifest in his election to the Senate of the United States. This occurred in January, 1877. In this body he immediately took high position by his great force of character. He served on various committees of prominence. He was placed upon the Committee on Rules. With that peculiar knack or tact which belongs to few men whom the author has met in Washington, he at once took rank as a parliamentarian. He presides, temporarily, more frequently than any other Senator. He is now a member of the Committee on Finance, which is the leading committee of the Senate.

Wherever assigned to duty, he has shown great attention and industry; but his capital quality is that of a positive and affirmative man. He is devoted to principle. He is candid, honest, and fearless in the advocacy of his opinions. He is a Democrat of the faith of the early expounders of the Constitution. He is a fit representative of the Democracy of the state which gave us Jackson, Grundy, and Polk. Senator Harris was re-elected to the Senate in 1883. His official term will close in 1889. Until then, the adherents of the doctrine of strict construction of the Constitution may be as-

sured that they will have a Senator who has the ability and courage to sustain his convictions; and the great mass of the people may know that they have a friend, watchful and attentive to their rights and interests.

Thus, from the crosses of war come the heroes who wear the civic crown. Out of the sacrifices, and from the very ashes and agonies of our sad conflict, arises this tribune of the people, who in the future will, in addition to his adhesion to Federal unity, combine the deathless thought of local independence and state pride, without which that unity is a rope of sand. "Wine issues from the trodden grape. Iron is blistered into steel.'

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The governor of Virginia during the war was John Letcher, of Lexington. He has already been referred to as a member of the Thirty-fifth and Thirty-sixth Congresses. The writer is indebted to him for many a prudent suggestion in the first years of his legislative service. Since the war ended he has corresponded with him. It is a chief delectation of a service that sometimes has its exactions almost beyond human patience, that such men have given confidence and trust amid all the darkening clouds of trial and war. No man, perhaps, ever represented a district in Congress with more fidelity than John Letcher represented the Lexington district. He was born on the 29th of March, 1813. He spent his whole life in Lexington, Rockbridge County, except when absent upon public duty. He owed his manly form and his mental capacity, his self-reliance and enduring qualities, to the mountain home in which he was raised. He was a poor boy, but rich in inherited Scotch-Irish blood. By its vigor he was lifted to an honorable niche in the Capitol of his state and of the country. He was educated at an old "Field school." He received some classical instruction at what is now the "Washington and Lee University," and at the Macon College. He became a member of the bar at twenty-three years of age. At the time Governor McDowell led the Democratic party of his region, he came to the front. He entered into the field of politics. He was an editor, a member of the legislature, and an admirable speaker upon the hustings. In 1851, he was elected a member of Congress, and was frequently re-elected. His significant sobriquet was "Honest John Letcher." He was one of the "watch-dogs" of the treasury. Along with George W. Jones and others, he was regarded as one of an incorruptible company who allowed no dishonesty which they could reach or suppress. He took a large part in expelling from their dishonored seats such men as Matteson and other Northern members, for bribery.

When the writer first knew Governor Letcher, the latter was chairman of the Committee on Ways and Means. That committee then had charge also of appropriations. In fact, Mr. Letcher had, in that position, command of the treasury and its resources.

But Governor Letcher will be best remembered in Virginia as its chief

magistrate in the most portentous period connected with the civil liberties, Federal relations, and social order of the country. He held the helm as magistrate with a firm hand. He venerated the fathers of the Constitution. He was a man of conservative and cautious instincts. He clung to the idea of the preservation of the Union and a peaceful solution of the difficulties, until all hopes, as he considered, were blasted by the proclamation of the President, issued on the 15th of April, 1861, to suppress certain combinations. Then, as one of his eulogists has said, without the slightest hesitancy, with the wisdom of Nestor and the courage of Achilles, he led his state through all its distress and peril. Whatever Virginia gained out of the chaos of the war, whatever Jackson and Lee did for the protection and honor of the state and for their cause in its varying fortunes, is largely to be shared with their coadjutor, the chief magistrate of Virginia. At the close of his official term as governor he devoted himself quietly to his profession. He was president of the board of officers of the Virginia Military Institute. He held no office after the expiration of his executive term. When he died, full of honors and years, on the 26th of January, 1884, the state mourned him as no son of hers has been mourned since the death of the great statesmen and jurists of Virginia — Jefferson, Madison, and Marshall.

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Governor Sam: Houston was also born at Lexington, Virginia, the birthplace of Governor Letcher. He was born on the 2d of March, 1793. His father served in the Revolutionary War, and held the post of Inspector of Brigade till his death in 1807. After the death of young Houston's father, his mother, with her six sons and three daughters, emigrated to East Tennessee, to a place within eight miles of the Cherokee country. His early educational advantages were very limited. While at school he desired to learn Greek and Latin, but being refused by the master, he left the school and entered a store as a clerk. For this occupation he had little relish. He soon relinquished it. He crossed the Tennessee River, and lived with the Indians for about three years. The chief adopted him as his son. At eighteen years of age he was six feet high and an active hunter. After his three years' experience with the Indians, he returned to his family and opened a school. During the war with Great Britain, in 1813, he enlisted as a private and was promoted to be an ensign. He fought under Jackson against the Indians at the battle of the Great Bend of the Tallapoosa, in March, 1814, where he was severely wounded. After the ratification of peace he was promoted to be a lieutenant. In 1817, he was appointed a subordinate Indian agent to carry out the treaty with the Cherokees which had just been ratified. In the succeeding winter he conducted a delegation of Indians to Washington. He resigned his commission in the army in 1818, settled in Nashville, and studied law. In six months he was admitted to the bar and began practice in Lebanon, Tennessee. He had a tendency toward a military life. He was

appointed adjutant-general of the state, with the rank of colonel. In 1819, he was elected district attorney of the Davidson District and took up his residence in Nashville. After serving two years as major-generalof militia, in 1823 he was elected to Congress. He was re-elected for the ensuing term almost unanimously. He was chosen governor of Tennessee in 1827. This office he resigned in 1829 and returned to his former friends, the Cherokees. Several years after, he went to Washington to remonstrate against the frauds and outrages practiced upon the Indians. The result of his visit was the removal of five of the government agents. He then became involved in personal and legal contests with these agents and their friends. He was accused in the House of Representatives by William Stanbery, of Ohio, of attempting to obtain a fraudulent contract for Indian rations from the government. This attack led to a personal rencontre between Houston and Stanbery, in which the latter was severely beaten. Houston, being the aggressor, was arrested and publicly censured by the Speaker of the House. He was also tried for the assault, and fined. The sentence of the court was not enforced, the fine being afterwards remitted by President Jackson. The charge of fraud was subsequently investigated by a committee of which Mr. Stanbery was the chairman. It was not sustained.

The writer, from 1856 to 1863, represented a part of the district formerly represented by Mr. Stanbery. He can recall, in a nebulous way, the terrific political campaign in that part of Ohio, when Stanbery was a candidate after the rencontre with Houston. Caricatures representing General Houston caning the Ohio member, and the humiliating attitude of Stanbery and the ridiculous legend of the pictures are a part of the reminiscence of the author's childhood. Politics were running with more acrimony then than now. General Houston was a Jacksonian champion, whose valor was eulogized at the expense of Mr. Stanbery's pluck. The phrase put into the mouth of the humiliated member in the caricature was: "Don't! — Don't! Oh! Lordy! Oh! Oh! Lordy!" This caricature defeated one of the ablest public men of Ohio — a man of brusque individuality, and of a courage never until that occasion questioned.

About this time revolutionary movements were organizing in Texas against the Mexican government. Houston went there at once. In the constitutional convention which met in April, 1833, he exercised a dominating influence. When the war for Texan independence began, he was elected general of the military district east of the Trinity. He led his troops to the camp of General Austin, who was then besieging Bexar. He was soon elected to the chief command of the Texan army. After the formal declaration of Texan independence, he resigned his commission and was immediately elected commander-in-chief of the army of the new republic. He was a man of foresight and prudence, combined with great valor. Had his orders been obeyed and his advice been taken, history would not have recorded the

butchery of the Alamo, nor the perfidious massacre of Goliad. With but 783 men and two six-pounders, he met Santa Anna at San Jacinto, with his force of 1,600 regulars, flushed with victory. After a fierce battle with the Mexicans he utterly routed them. In that battle 630 of the Mexicans were killed, and only eight Texans. This battle settled the independence of Texas. Santa Anna was captured, being disguised as a common soldier. During his captivity he made a treaty which secured Texan independence. General Houston soon sailed for New Orleans, where he arrived in almost a dying condition, having been severely wounded in the fight at San Jacinto. In the following September he was elected president of Texas.

General Houston was a man of great ambition. He was a standing candidate for the Presidency. He had a form and mien quite as *outré* as that of any man who ever entered Congress or served the people. He came to Washington wearing a Mexican blanket, or *poncho*. He used to sit all day in his senatorial seat whittling cedar sticks, until the shavings were piled around him. He had an infinite treasury of humor, and used it in discussions with rare effect. His picture of General Cass's Anglophobia, which he illustrated by a bloodless fight he once saw between two big turtles, was one of the most amusing pieces of drollery ever laughed at in or out of Congress. Houston was a man of great nobility of heart, as well as of indomitable courage. He appointed his political rivals to important offices. It was he who opened negotiations with the United States Government for the annexation of Texas to the Union. He served two terms as president of Texas, paid off a large amount of her national debt, kept the expenditures within the revenues, made treaties with hostile Indian tribes, restored peace and trade with Mexico, and finally consummated the annexation to the United States, although the formal annexation did not take place till after the expiration of his constitutional term of office. With Thomas J. Rusk, in 1845, he entered the Senate of the United States. He was re-elected in 1853. He remained in the Senate till March 4, 1859. He was always a zealous advocate of justice and humanity to the Indians. He, unfortunately, gave his adhesion to the Know Nothing, or American party. He opposed the Kansas and Nebraska bill in a speech in 1854; and in 1858, he voted, with Douglas, against the Lecompton Constitution of Kansas. In August, 1859, he was again elected governor of Texas. He was an earnest and bitter opponent of secession. He long resisted the disunion clamor for an extra session of the Texas legislature, and finally resigned his office in preference to taking the oath required by the secession convention. He died at Huntersville, Texas, July 25, 1863, but before his death he gave his reluctant assent to the action by which Texas followed the other Gulf states out of the Union.

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Georgia has a wonderful diversity of resources. All she lacks to make

her the rival of the State of New-York is more capital and people. She is well named an empire state. What of development she has had since the war, has been largely owing to the sagacity of her statesmen. They were early out of the unthrifty trenches of Federal and Confederate conflict. They were among the first of Southern statesmen to discern the dawn of a better time. They sought to be rid, at once, of the adventurous *insectivora* who were fattening upon the body of their state and impeding her growth, and to give incentive and advancement to her industry and trade. In the language of her war governor, Joseph E. Brown, the subject of this sketch: "There she stands, the grand old state, — arable, watered, timbered, peopled in every district, — with immense capabilities in the production of nearly all that man needs of food, raiment, medicine; laden with vines and fruits, and with her graceful drapery trimmed with every variety of flowers, from the gorgeous magnolia to the bridal-wreath spirea." It is no idle boast to say, that in a material view she is as peerless in her climate as she is imperial in her area and production. Her precious stones, and still more precious metals, deck her bridal array. In 1880, her population was 1,542,180. All but about ten thousand were natives of this country. Her white population exceeds the colored by about one hundred thousand. She has 37,120,000 acres of land. While planting is, and has been, her leading industry, she is more energetic than some of the other cotton states. She follows the pod of her fields to her own mills, and spins it for the clothing of the South. In 1880, she had six and a half millions invested in cotton mills, with an equal value in the products of that fabric. Since the census has been taken, her manufactures have largely increased. When one of the colonies, she was inspired with the spirit of liberty, tempered by an earnest religious element. Both were the result of the bent given in the childhood of her history. Parties in her past revolutionary struggles were nearly equally divided; so that excesses became the exception, and moderation the rule, of her governance. The state which boasts among her sons the names of Troup, Crawford, Forsythe, Cobb, Lumpkin, Baldwin, Johnson, Colquitt, Warner, Streeter, Berrien, Hill, Lamar, Toombs, and Stephens, — preachers, lawyers, statesmen, humorists, and poets, — was not lacking in the ability to direct and control even the wildest elements of revolution. Her sons in other states, the best example of whom is Lucius Q. C. Lamar, of Mississippi, now Secretary of the Interior, have shown in the very torrent and tempest of a passionate love for their sunny section, an effective composure worth whole satrapies, in the rule of an ardent and impetuous people. Foremost among the men of this rarely-gifted state was, and is, Joseph Emerson Brown. He is the present Senator from Georgia. He is not gifted, as was Benjamin H. Hill, and as is Lamar, with the splendors and fervors of eloquence; but as a practical man, his business tact, equipoise, energy, and knowledge of men became as indispensable to his state in 1860–'61, as they are now effective in sustaining her interests and honor.

Senator Brown was born in South Carolina, April 15, 1821. The mountain district of Cherokee in Georgia gave hospitality to the family and to the boy. He was a senator in the legislature in 1849. He was one of that class of Unionists, who in 1850 agreed upon the compromises of that year. He then repudiated resistance to the Federal Government. He has been always a Baptist and a Democrat. His hair and beard have grown long and silvery in vindicating his ideal of church and state.

He, also, was of Scotch-Irish descent; and therefore his ancestors were Whigs and rebels in the Revolution. He was a teacher. "He read law of nights and Saturdays, without an instructor." He paid off the debt for his education, by his own industry. He was also thus enabled to go to the Yale Law School, from which he graduated in 1846. He practiced law for eleven years. He became chief justice of his state after the war. He ascended by the ladder which he made and reared himself. He thus became equipped for the work of directing his state, as its chief magistrate, in its great ordeal from 1860 to 1866. He had early given his searching attention to its material interests. The railroads and institutions of his state had his special efforts. He is now president of its chief railroad. He was first inaugurated as governor in 1857. He remained at this chief post of honor and usefulness until the Confederacy collapsed. He was four times elected governor by the people, and by large and increased majorities. His first belligerent act as governor was his proclamation of April 26, 1861, forbidding the payment of debts to Northern creditors. In 1863, when the peace sentiment began to be heard in murmurs, he rather surmised that his state was not ready for peace. Although not unfriendly to the theory and objects of secession, he distrusted the administration of the Confederate President. Still he was re-elected, and by the votes of the soldiers in the field. He was not backward in the exercise of the veto. Being a business man, he took an unusual interest in the banking institutions of the state and their proper restraint. As a friend of education, he bent his energies in favor of state economy, with the view to be as prodigal as possible in forwarding plans for educating the rising youth of Georgia.

The telegraph clicked the news of the Presidential election, on the 7th of November, 1860. A sectional candidate was elected. The cotton states were allowed but little time for a calm determination of their course. They determined to resist what was termed Federal encroachment. The Georgia ordinance of secession was adopted as early as the 20th of December, 1860. The vote test was 160 to 130. Fort Pulaski was at once occupied by order of the governor. His headquarters were fixed at Savannah. Col. Alexander R. Lawton, who opposed Governor Brown for Senator, and who is just named as minister to Russia, and has gallantly resigned the post, was ordered to occupy this stronghold entrance into the state with the First Regiment of Georgia volunteers. This was done. In one line of conduct,

however, Governor Brown was greatly distinguished from other Confederate governors. We may except, perhaps, Governor Vance, of North Carolina. It refers to state sovereignty. He carries out, even in defiance of Jefferson Davis and the Richmond government, his ideas on this topic. It is to Governor Brown that Governor Vance sends his significant letter of Sept. 23, 1864. It asks concerted action by the legislatures of the various Southern States. That letter suggests that the "principle of state sovereignty rendered it improper to allow the Confederate Government to conscript the citizens of Georgia." It is his boast, that he never opposes the execution of the Confederate laws; but he certainly remonstrates with a vigor unprecedented for a subordinate, and to the very verge of opposition, to the acts of the Confederate Government. His correspondence in 1864, with James A. Seddon, Confederate Secretary of War, reveals this discussion in its personality, amplitude, and ability. When Sherman began to move toward Atlanta, Governor Brown called out the state militia. Old men and boys, civilians and disabled soldiers, non-combatants, all were summoned to arms. They responded ten thousand strong. President Davis forthwith made a requisition for these troops, under date of Aug. 30, 1864. On the 12th of September, Governor Brown gives reasons for refusing this requisition. He, in fact, charges the Confederate President with designs of grasping ambition, and to place in power his own favorites. These troops are state militia. They are raised to repel state invasion. "Georgia," the governor says, "has already on Virginia soil, fifty regiments of her brave sons." He not only refuses to send the ten thousand militia men, but he demands that the President permit all the sons of Georgia to return to their own state, to rally around her glorious flag within her own limits.

To this letter Mr. Seddon replies. Its tenor and spirit cause painful surprise. It requires forbearance, and he forbears to answer too sharply. But the answer is not soft. It does not turn away the gubernatorial wrath. It closes with this sting of reproach: "Our enemies appear to have conceived that you are prepared to entertain overtures of separate accommodation, and that your state could be seduced or betrayed to treachery and desertion."

A long, argumentative rejoinder was made to this letter. The reply to the suggestion of Secretary Seddon that Governor Brown's action sprung from the spirit of opposition to the Confederate Government, was trenchant, passionate, and biting. "Some men," said he, "are unable to distinguish between opposition to a government and unwillingness blindly to indorse all the errors of an Administration; or to discriminate between loyalty to a cause and loyalty to their master. My loyalty is only due to my country; you can bestow yours where your *interest* or inclinations may prompt." The italics upon the word interest are in Governor Brown's own letter and volume. This correspondence displays the same vein of independence in local sovereignty that appears in the spicy correspondence between Jefferson

Davis and Governor Brown, in 1862, upon the conscription. These jealousies had much to do with weakening the Confederacy, even as early as 1862.

When the disasters of 1864 fell upon the South, Governor Vance, of North Carolina, proposed a meeting of governors at Augusta in October, to confer as to some general plan of action for the relief of the country. This and other matters are referred to in the following chapter. They will show that there was an element of discontent in the Confederacy. Many prominent people looked eagerly for a cessation of the war, and for rehabilitation in the old Union.

It is not a part of the plan of this book to show in detail the local administration of the states, except as it is connected with Federal affairs. Hence, much to the honor of this energetic man and governor is omitted. When the war was over, and others were backward in sustaining the Reconstruction acts, his rare business foresight taught him, despite temporary unpopularity, to speak for the wisdom of prompt acquiescence. How he helped to carry out these measures, although the Democratic party opposed them, will appear in the proper place. His efforts were herculean. He even voted for General Grant in 1868, on the basis of his hopes and efforts for reconstruction. Since 1872, he has been happy in the household of Democratic faith. As an evidence of his restored popularity, he has been re-elected to the Senate for his second term, which began with the inauguration of President Cleveland.

Truly, if there was ability anywhere to maintain the Confederacy, it was in the hands and heads of such business executives as Joseph E. Brown. But it was fated otherwise. Senator Brown has amassed a vast fortune, but he does not forget the ladder by which he ascended, round by round, to opulence and prominence. He is munificent in all the varied ways known to benevolence and piety. To church and college, to asylum and individual, his charity goes out in varied forms of generosity to bless those who are struggling, as he himself had struggled. He is endowed with those larger sympathies which embrace his beloved state in his benefactions, and encompass a restored Union with patriotism and magnanimity. In his policy as a Senator, as in his efforts after the war, he is still as self-reliant as in the dire extremities out of which he helped to rescue his state.

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Zebulon B. Vance was the governor of North Carolina during its most critical period. He was born on the 13th of May, 1830, in the shadow of Mount Mitchell. That region was then difficult of access. It was unpenetrated, except by a few mountain roads. The schools were kept in log-houses in the valleys. The basis of young Vance's education was a well-selected library left to his father's family by his uncle, Robert B. Vance, of the same name as a subsequent congressman.— In 1824–'25 and '26, the elder Robert represented that mountain district, then known as Buncombe, from one of its counties. It was represented in 1858–'59–'60 and '61 by the other Robert B. Vance, a brother of the governor.— The library contained about

five hundred volumes of the cream of literature: Hume, Gibbon, Smollet, Rollins; Heroditus, Thucydides, Livy, Tacitus, and Cicero; Fielding, Scott, Swift, Addison, Pope, Byron, Shakespeare, Milton, Campbell, and Moore, among the poets and novelists; Adam Smith's *Wealth of Nations*, among the works of political economists; Marshall's *Washington*, Otis' *Batta*, and Lee's *Memoirs*, among the American writings. The best books of the day were on the shelves. At the age of twelve, young Vance had already skimmed over most of them. It thus happened that the best classic literature made the first impression on his mind. He studied law at Chapel Hill, and obtained a license to practice in the county courts in January, 1852. He was admitted to the superior court in August, 1853. He married the day after he received his superior court license. On arriving home from college in 1852, with the county court license, he was immediately elected county solicitor by the bench of magistrates — the first office he ever held. He did not practice long before his natural inclination for politics prevailed. He was elected to the legislature, the lower branch of which was then called the House of Commons. With youthful confidence he thought he knew all about political economy. He says now that he would give a thousand dollars for a verbatim report of one of his first speeches on the tariff, and five hundred more for a photograph that would represent the young orator standing on a log, and three or four hundred hardy mountaineers listening to his exposition of the laws of economy — wondering where the boy got it all. That legislative tour made his fortune. He came to Congress in 1858. The writer then served with him on the Committee of Revolutionary Claims. The war came on.

Mr. Vance was strongly opposed to the secession movement. He withstood it with all his energy, until his state took action, and Mr. Lincoln called upon her to furnish her quota of troops to suppress the rebellion. Deeming his allegiance due primarily to his state, like most Southern men, he immediately volunteered, raised a company, and departed for the seat of war. In four months he was made a colonel. He commanded the Twenty-sixth Regiment of North Carolina troops at the battle of Newbern, and in the "seven days" fighting in front of Richmond, in 1862. While in the field, without a nomination or even candidacy, he was elected governor of the state by a very great majority. He assumed the duties of the office on Sept. 8, 1862, at the age of thirty-two, being the youngest man ever elected to that position, as he was also the youngest member of Congress when he entered that body. He was again elected governor, by a still larger majority, in 1864, and continued to serve until displaced by the Federal authorities in 1865.

His administration of the affairs of the state at so critical and turbulent a period was marked by a large measure of efficiency and success. He aided in the recruiting of the Confederate armies by a rigid enforcement of the conscript laws, as well as by urging volunteering. He stimulated in every

possible way the production of home supplies, and instituted a system of blockade running by fast steamers, purchased on the Clyde, by which the home supplies were so supplemented that the North Carolina soldiers became well known as the best equipped and best provided for in the Confederate service, leaving a considerable surplus to be turned over to the army at large. Supplies of articles of indispensable necessity were also imported by him for the people, and much was done by the energy and enthusiasm which he inspired among all classes to support the war spirit. In short, though going into the war reluctantly, no man in the South stood to it more firmly to the bitter end, or rendered more efficient aid for its prosecution. So thoroughly had he organized the development of the resources of his state, that in a recent address at the city of Baltimore he boasted that North Carolina's part of the men and means for the support of the war could have been maintained for two years longer.

From the first movement of reconstruction to its closing scene, Governor Vance was its bitter opponent, and was recognized as one of the foremost leaders in combating its now universally admitted pernicious effects upon Southern society. In every canvass he was upon the stump. In 1868 he was nominated for governor, but because he was under the disabilities of the Fourteenth Amendment he declined to run. In 1870 he was elected to the United States Senate, over his present colleague, Matt W. Ransom, and A. S. Merrimon, the late Senator. He was not admitted to his seat, by reason of his disabilities. In 1876, he was again nominated for governor by every vote, except four, of a thousand delegates in convention assembled. He carried the state, which, since reconstruction, had been Republican, by more than thirteen thousand majority, against the ablest Republican in the South. In January, 1879, he was again elected to the United States Senate, of which body he is now a member, by recent election, for the third time. His best known characteristics in that body are hostility to high protective tariffs, and all forms of capitalistic monopoly. He is strong in integrity, wondrous in vivacity, and a leader of high rank in American politics.

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It is stated that the "stars and bars" failed as a national ensign. Its similarity to the "stars and stripes" made it useless. In some of the battles the colors of the two armies could not be distinguished from each other. It seemed, says General Beauregard, referring to this fact, that many of both sides believed that each side was using, as a stratagem, the flags of their opponents. A battle-flag was substituted in the Southern armies. This is an analogue. It teaches how near the respective armies and people were to each other, even when seemingly so far apart. The same doctrines, when carried to extremes, North or South, brought destruction; but after all, when rightly viewed, their differences seemed so slight that the stars and bars and the stars and stripes represent, at least now, a constellated ensign, with a state for every star, and a star for every state.

CHAPTER XVI.

PROPOSITIONS FOR PEACE, AND THE AMENDMENT ABOLISHING SLAVERY.

THE CONFEDERACY AT THE END OF 1864 — GLOOM AT RICHMOND — THE CALL FOR THREE HUNDRED THOUSAND MEN BY PRESIDENT LINCOLN — THE ATTEMPTS OF MR. STUART, OF ILLINOIS, AND THE AUTHOR TO MAKE PEACE — THE ANTI-SLAVERY ZEALOTS DISFAVOR ALL PEACE PROPOSITIONS — LINCOLN AND SEWARD MAKE OVERTURES OF PEACE — ATTEMPT TO CARRY THE THIRTEENTH AMENDMENT BY TWO-THIRDS VOTE — THE CONFEDERATE DILEMMA — COLONIAL VASSALAGE, OR SUBJUGATION — SHALL THE SOUTH GO TO ENGLAND AND FRANCE? — WANING POPULARITY OF JEFFERSON DAVIS — EVENTS WHICH LED TO THE COLLAPSE OF THE CONFEDERACY — SHERMAN'S MARCH TO THE SEA — THE TAKING OF SAVANNAH AND FORT FISHER — PEACE PROPOSITIONS NORTH AND SOUTH DURING THE WAR — RESOLUTIONS AND SENTIMENTS AGAINST PEACE — THE GROWTH OF THE PEACE SENTIMENT FROM 1861 TO 1865 — PEACE BY COMMISSIONERS, AND BY DELEGATES TO A NATIONAL CONVENTION — THE NIAGARA CORRESPONDENCE BETWEEN SANDERS AND GREELEY — ITS FAILURE — LINCOLN'S AUTHORITY FOR THE ATTEMPT — VISITS OF FRANCIS P. BLAIR, SR., TO RICHMOND — THE RESULT — THE MONROE DOCTRINE, AND CONFEDERATE EMIGRATION TO MEXICO — THE DEBATE ON THE AMENDMENT ABOLISHING SLAVERY — THE POWER TO AMEND CONTESTED — THE AUTHOR'S SPEECH IN FAVOR OF THE RIGHT TO ABOLISH, IN REPLY TO PENDLETON — THE PASSAGE OF THE AMENDMENT — BRIBERY ALLEGED — ITS RATIFICATION — MR. SEWARD'S COMMENDATION OF THE DEMOCRATS WHO FAVORED THE AMENDMENT — HAMPTON ROADS CONFERENCE — LINCOLN AND SEWARD THERE — RESULTLESSNESS OF THE MEETING — DEBATES AND RESOLUTIONS ABOUT IT — WHAT IT ATTEMPTED — CONCLUSION OF THE WAR.

THE geographical limits of the Confederate power at the end of the year 1864 had been greatly contracted. Texas was the only state which had not been more or less occupied by the Federal troops and authorities. Louisiana, Mississippi, parts of Georgia, Virginia, Florida, and South Carolina were still measurably controlled by the Confederate authorities. Twenty-three army corps, all under one head, and under commanders who had learned much of the dreadful art of war from experience, were environing what was left of the Confederate area. The garden-spots of the South were held by the Union armies. Sheridan, it was said, had destroyed two thousand barns in the Shenandoah valley. Grant

had facetiously said that a crow could not fly over that fruitful valley without carrying its own rations. The resources of the North had not yet been taxed to their uttermost. The purpose of the people and of Congress was more determined than ever. War was no longer a pageant. It had proved an ordeal of fire and blood. Ambitions were suppressed. The coil was winding for a grand, final struggle around the lessening and weakening garrisons of the Confederacy. It was now "submission or conquest." The direful question came closely to the heart and hearths of the South.

At the beginning of the year 1865, rumors prevailed of a movement of the army of General Lee from Richmond to Danville or Lynchburg. This movement was said to be dictated by stress of circumstances. The Confederate Government and archives were to follow the army. Three hundred thousand men had been called for by President Lincoln's proclamation of the 20th of December, 1864. The drafting for that levy under it went on vigorously. The Confederate cruisers were still scouring the seas and capturing our vessels. But on land, the successes of Sherman and Thomas had depressed the hopes of the Confederacy to the lowest point of despondency. Events were thus preparing the way for peace.

At this time — during the holidays — it occurred to the writer, as it did doubtless to others, that the olive-branch might be tendered the South, under honorable conditions and with a prospect of acceptance. He was then serving on the Committee of Foreign Affairs. Upon that committee was Mr. John T. Stuart, of Springfield, Illinois. He was an intimate friend, and had been a law partner of, President Lincoln. He had been a Whig, and his sympathies were enlisted with the President. He became a Democrat, and was a conservative Unionist. It was his moderate and influential qualities which led the writer to suggest a call, in his company, upon the President, with a view to urge the Executive to hear what was proposed by, or to make some tender or overture to, the Confederate authorities. The precise words or tenor of the conversation which Mr. Stuart and the author had with the President were not carefully noted at the time. Mr. Stuart, who is still living, states in a recent letter to the writer, that he remembers the main facts, but not the details of this incident and interview. The President listened courteously and anxiously to the representations. He said frankly that he was anxious to have our Democratic aid and vote for the proposition to amend the Constitution so as to abolish slavery. The writer promised the President his help, provided a sincere effort was made for peace within the Union. If the effort failed, he said to the President, that not only by his help would the amendment be adopted, but the war would be pursued with renewed vigor. The writer also conversed freely on the same proposition with Mr. Seward. Mr. Seward regarded the acceptance of such an amendment as absolutely needed in all negotiations for peace, as the Emancipation Proclamation was of doubtful validity, whereas an amendment

would be organic, indisputable law. This mode of assisting the troops was not greatly regarded by our generals in the field — Grant, Sherman, Sheridan, and Thomas. They knew that slavery was already a corpse, made so by the war. They did not cast moral and political horoscopes, as did Seward and Lincoln.

The holiday season at Richmond was one of gloom. A desperate call was made to make Robert E. Lee, Generalissimo, or, in the language of that day, Dictator, with plenary powers of appointment in the army. This was afterwards consummated. That gallant soldier and accomplished gentleman held a marvelous power over his compatriots. He had married the daughter and heiress of George W. Parke Custis — the adopted son of George Washington. In many attributes, he resembled the Father of our Country. Although there was little in the grandiose title proposed which could add material strength to the crumbling Confederacy, yet the concentration of military power and skill in one intelligent captain of all the corps not only acted as an incentive upon the discouraged soldiery of the South, but gave unity and vigor in the management of the devoted remnants of the Southern armies. Complaints were made that the civil officers of the Confederacy had been grossly maligned. Newspapers in Virginia and Georgia, the governors of several states, the legislature of Alabama, and members of Congress from Missouri, and others prominent in the Confederacy, then in Richmond, were in a critical, if not defiant mood regarding the conduct of affairs by the Confederate Administration. "The Jews were frequently ready to stone Moses," said the Richmond organ in defiant defense of Jefferson Davis and his Cabinet. The Confederate President was called "weak, obstinate, capricious, and incapable," and his Cabinet were denounced as "imbeciles." This virulent crimination soon became mutual.

The war went on. Devastation by cavalry raids in the border states added distraction and desperation to the prevailing Confederate gloom. Sherman had moved to the sea before the holidays. His sixty miles swath reminded the military scholar of the invasion of the Carnatic, by Hyder Ali. Savannah had lowered the stars and bars and raised at half-mast the Union flag. The new position was accepted by its citizens with grace, and with some view to thriftiness. Practical charity from New-York City supplied the needs of its impoverished people. Sympathy thus began to do its benevolent work. Meanwhile, anti-slavery zealotry, led by Gerrit Smith and Wendell Phillips in the lecture-hall, and by Salmon P. Chase, Zachariah Chandler, and others in the public service, omitted no occasion to magnify the humanity of its cause, and to dignify the war as one for the enfranchisement of the black and the glory of the white man. The Thirteenth Amendment was demanded by them in no piping tones of peace.

The Confederacy had, then, really but one substantial army in the field. It was that of Lee, at Richmond. Richmond became the objective point

of all the available Federal forces. The superior legions and resources of Grant made but one result certain. What Pharsalia was to Pompey, and Waterloo to Napoleon,—Richmond was to Jefferson Davis. European assistance to the Confederacy was no longer possible. The story of the transfer of the South to England or France was one of the fierce illusions of that distracting hour of despondency. Even the veteran remnants of the armies of the South, so defiant and courageous, began to suffer for rations. They were as chivalric as ever, but their cause was fading away, day by day.

It was under these surroundings that the humiliating alternative came home to the Confederate leaders and people from the secession point of view, of colonial vassalage under a foreign yoke, or subjugation by the North. But this degrading form of deliverance was soon turned aside as the result of panic. It was scouted as an admission of defeat and ruin. It was well understood that a majority at Richmond preferred a reunion with the Federal system, and few favored the idea of union with a foreign power. One reason for this was the failure of France and England to give full recognition and aid to the Confederate cause. The central authority of the Confederate President had been assailed with intense bitterness. In other states beside Virginia, a virulent opposition to the President, and his policy, and his Cabinet had arisen. Of the merits of this controversy it is not intended to speak in a volume on "Federal legislation." North Carolina was never very firmly moored to the Confederacy. She had not been enamored of nullification in 1832. She early became a pronounced dissentient, and then a foe to the Confederate Administration. The suspension of the privilege of *habeas corpus* by President Davis aroused the spirit of the descendants of the signers of the Mecklenburg declaration. It is alleged that the opposition to the policy of President Davis on the part of the governors of the states was much stronger than has been generally thought. It transpires now that Governor Vance formally threatened the Confederate Secretary of War that he would call on the North Carolina troops to resist what he believed to be the unconstitutional action of the government on Carolina soil; and that a meeting of the governors of the seceding states to formulate some concerted opposition to the policy of the President, was actually agreed on. Separate negotiations for peace by individual states were suggested and argued. So far had this matter gone, that Mr. Porcher Miles introduced into the Confederate Congress, a resolution declaring that the attempt to make peace with the separate states was violative of the Confederate Constitution and revolutionary. South Carolina, through one of its ablest men, William W. Boyce, arraigned the Richmond government upon state rights grounds. He denounced it as the worst of tyrannies. The governor of Mississippi held his militia aloof from the Confederate authorities who were eager for more troops. Governor Brown, of Georgia, was not less a resolute stickler for, and defender of, local sovereignty. After Sherman reached the sea, the gov-

ernor gave his wisdom and best judgment to clarify the air and restore trade and order, under state authority. The Vice-President, Mr. Stephens, did not indulge in criminations; but his influence leaned toward his own state and its action, and not toward Virginia and President Davis. About this time people began to ask: "Was it right to secede? If so, why not secede from the Confederacy?" Here was the rock of danger. This application of the secession theory gave some apprehension to those who had founded a government upon the right of secession. The citizens of Savannah, in public assembly, yielded to this Socratic logic, and began betime the work of rebuilding their shattered trade and fortunes, and of remantling their institutions.

By the middle of January, certain states, with more or less regularity in their constitutional conventions, had decided to abolish slavery. These were Missouri, Maryland, West Virginia, and afterwards, Tennessee. In other states it was conceded that the property in slaves was as delusive as fairy money. Slavery was dead,—it was simply a question of its interment. The Thirteenth Amendment was to be the death-knell of the Southern cause.

Even General Lee recognized this fact. He advised the conscription of the negroes. This was said to be the position, also, of Mr. Davis. He desired to liberate soldier slaves and their families. This scheme was made a lever against the forces of the Confederacy. "What?" it was asked, "liberate the slave in order that he may fight to sustain the corner-stone of the Confederacy—slavery!" Young men of the Confederacy were now being "run off" to Mexico by parents and guardians to escape the conscription. Truly here were signs of the end;—the arming of slaves seriously considered, and the whites fleeing from conscription. It was the Massachusetts policy over again.

While these discouragements were abounding in the Southern councils, Fort Fisher fell before Admiral Porter's bombardment and General Terry's assault.—General Ames, who gallantly led the storming party, was afterward military governor in Mississippi.—Blockade-running was thus ended. Wilmington harbor was closed, and the city itself exposed to the Federal enemy. The day after Fort Fisher fell, ex-Speaker Orr, with courageous audacity, declared in the Confederate Congress for "an honest effort of statesmanship to end this carnival of death." Mr. Atkins, of Tennessee, now Commissioner of Indian Affairs, indulged in similar remarks. Gold began to fall in Wall Street, a most significant sign of the declining Confederate orb.

The events of the war are not intended to be detailed herein, except as may be necessary to illustrate the drift of the Federal and Confederate governments. They are not strictly a part of the history of Federal legislation, although they gave occasion for much legislation. The scope of this volume does not allow their recital. While Federal legislation strengthened the arm of Federal force, it also leavened the elements of Southern society. It affected Southern state governments, and to some extent the Confederate

Congress and army. It led even General Lee, long before he sheathed his sword at Appomattox, to urge upon President Davis the hopelessness of further conflict. He pressed upon the Confederate Administration the encouragement of the peace sentiment North. He made emphatic his desire to end the struggle upon honorable terms. This desire for peace was not confined to the South. The sacrifice of so many brave men had aroused a pacific sentiment in the North. The people yearned for the rehabilitation of the recusant states within a peaceful Union. This was evidenced by the offering of resolutions looking toward peace and union, in the Congress of the United States. These were met by counter-resolutions for a more vigorous prosecution of the war. A crisis was impending. The issue was sharp. In the first session of the Thirty-eighth Congress, beginning with the month of January, fierce speeches were made by the Republican leaders to sustain resolutions for the persistent prosecution of the war. These came from Amos Myers, Green Clay Smith, Jacob B. Blair, John H. Rice, Gen. Robert C. Schenck, and even from Mr. Kinney, the Delegate from Utah. General Schenck, who was by his natural and acquired qualities a leader in legislation and politics, voiced the paramount though weakening sentiment of the country and of Congress. After asserting that the rebellion must be effectually put down, he added: "and that to prevent the recurrence of such rebellion in future, the causes which led to this one must be permanently removed." He insisted that there was no middle ground; and that there should be no "neutrality or indifference, or anything short of a hearty support of the government." It was a question, he asserted, between loyalty and treason. The positiveness of these assertions is proof of the existence of a strong pacific sentiment.

From the commencement to the close of the war, the Democrats in Congress spared no efforts to bring about an honorable peace. As early as July 29, 1861, forty-one Democrats voted for a proposition then offered by the author.

It recited that — "It is the part of rational beings to terminate their differences by rational methods; and inasmuch as the differences between the United States authorities and the seceding states have resulted in a civil war characterized by bitter hostility and extreme atrocity; and although the party in the seceded states are guilty of breaking the national unity and resisting the national authority; yet,

"*Be it Resolved, First.* That while we make undiminished and increased exertions by our navy and army to maintain the integrity and stability of this government, the common laws of war, consisting of those maxims of humanity, moderation, and honor which are a part of the international code, ought to be observed by both parties, and for a stronger reason than exists between two alien nations, inasmuch as the two parties have a common ancestry, history, prosperity, glory, government, and union, and are now unhappily engaged in lacerating their common country.

"*Second.* That, resulting from these premises, while there ought to be left open, as between two alien nations, the same means for preventing the war being carried to outrageous extremities, there ought also to be left open some means for the restoration of peace and union.

"*Third.* That to this end — the restoration of peace and union on the basis of the Constitution — there be appointed a committee of one member from each state, who shall report to this House, at its next session, such amendments to the Constitution of the United States as shall assuage all grievances, and bring about a reconstruction of the national unity; and that for the preparation of such adjustment and the conference requisite for that purpose, there be appointed a commission of seven citizens of the United States, consisting of Edward Everett, of Massachusetts, Franklin Pierce, of New Hampshire, Millard Fillmore, of New-York, Reverdy Johnson, of Maryland, Martin Van Buren, of New-York, Thomas Ewing, of Ohio, and James Guthrie, of Kentucky, who shall request from the so-called Confederate States the appointment of a similar commission, and who shall meet and confer on the subject in the city of Louisville, on the first Monday of September next. And that the committee appointed from this House notify said commissioners of their appointment and function, and report their action to the next session as an amendment of the Constitution of the United States, to be proposed by Congress to the states for their ratification, according to the fifth article of said Constitution."

In its preamble, this resolution was based upon Vattel's famous chapter;— the same from which Thaddeus Stevens deftly and cunningly drew his rule of warfare against the Confederacy, on the theory that the states had in law, as in fact, seceded from the Union, and were outside of the Constitution, and subject to all the rules and consequences of war which obtain among belligerent and alien nations.

On the 5th of August, 1861, during the same extraordinary session, Mr. Calvert, of Maryland, proposed the appointment of a committee which should examine into the original causes of the dissensions, and recommend such remedies as would restore peace and union. His remedy was by amendments of the Constitution. It received the Democratic vote only. Mr. Henry May, of Maryland, offered another resolution. It had a most pronounced preamble against the uncompromising and subjugating spirit of the Republican party. He favored the appointment of peace commissioners, and an armistice. Mr. Saulsbury, in the Senate, on the 4th of December, 1861, offered resolutions nearly similar to those offered by the writer. A year after, on the 3d of December, 1862, Senator Garrett Davis proposed the election of delegates to consider the situation. Mr. Vallandigham followed with an earnest resolution for peace, and for the security of the rights of the states and sections, within the Union under the Constitution. Five

days afterwards, Fernando Wood, a member of Congress from New-York, indited a letter to President Lincoln on the subject of peace.

In this letter Mr. Wood stated that he was advised, by an authority reliable and truthful, that the Southern States would send representatives to the next Congress, provided that a full and general amnesty should permit them to do so. No guaranty or promises were asked for, other than amnesty. He also stated that he had communicated this information to the mayor of New-York, who, at that time, held confidential relations with members of the Administration. He appealed to the President to suspend the fighting, and to procure something definite from persons connected with the Confederate authorities. He asked the serious attention of Mr. Lincoln to this subject, on account of the magnitude of the interests at stake. "If it [the information] shall prove groundless," said he, "no harm shall have been done. If it shall prove well founded, there is no esteem too high to place upon its national value." The President replied to Mr. Wood on the 12th of December, 1862. He referred to the important paragraph in the letter, and stated that he suspected the information would prove groundless. "Understanding the phrase in the paragraph above quoted, namely, 'that the Southern States would send representatives to the next Congress,' to be substantially that the people of the Southern States would cease resistance and would re-inaugurate, submit to, and maintain the national authority within the limits of such states, under the Constitution of the United States, I say," said Mr. Lincoln, "that, in such case, the war would cease on the part of the United States, and that if, within a reasonable time, a full and general amnesty were necessary for such end, it would not be withheld." He at the same time said to Mr. Wood: "The people of the Southern States already know this, and when they choose, if ever, they can communicate with me unequivocally." But the President did not think it proper to suspend military operations in order to try any experiment of negotiation. Mr. Wood replied, renewing his suggestions to suspend military operations. Nothing came of this correspondence.

Mr. Wood, on the 14th of December, 1863, moved for commissioners and negotiations. The motion received fifty-nine votes; six Democrats only voting against it. On the 9th of June, 1864, Senator Garrett Davis introduced a joint resolution in which he proposed a cessation of arms and an amnesty, with a view to a convention of the people of all the states to reconstruct their Union. Green Clay Smith, of Kentucky, offered three resolutions, one of which had much significance because of the vote it received. It recited that it was the duty of Congress to pass all necessary bills to supply men and money for the army; and the duty of the people to render every aid to the constituted authorities. This received every vote of both parties, save that of Benjamin G. Harris, of Maryland. Other resolutions were offered in the summer of 1864. Nearly all were of the same tenor, and had

the same fate. Andrew J. Rogers, of New Jersey, and John L. Dawson, of Pennsylvania, offered resolutions looking to peace. Alexander Long, of Ohio, re-offered the resolution which the writer offered in 1861, for the appointment of commissioners. Mr. Lazear, of Pennsylvania, favored an armistice and the election of delegates. Frank Le Blonde, of Ohio, followed with a resolution for commissioners. The Chicago Convention met, and while nominating a soldier for President, Gen. George B. McClellan, it held out by its platform the olive-branch which, as the election showed, the people were then unprepared to accept. Thereafter transpired the correspondence begun on the Canada side of Niagara Falls, between George N. Sanders, of Kentucky, and Horace Greeley. Certain irresponsible persons — Kirk, Jacquess, and others — had already ventured over our lines to Richmond and made tentative, unauthorized proposals for peace. Their attempts gave occasion for ridicule. They were the farcical overture of more serious attempts. One of the latter was at Niagara.

Mr. Sanders was a man of extraordinary ability and undaunted hardihood. He had been consul to London. He was an owner as well as a writer for the *Democratic Review*, when it was representative of Young America and Stephen A. Douglas. He was a man of remarkable foresight. He was among the first to perceive the dangerous tremors of disunion in the Charleston Convention, and afterwards the tottering condition of the Confederacy. But he was not the man to be selected to carry on delicate negotiations. He was, however, the fountain from which the negotiations sprang. He met Mr. Greeley at the Clifton House, Niagara Falls, in July, 1864. He wrote a note to that gentleman, in which he declared that he was authorized to say that Clement C. Clay, of Alabama, James P. Holcombe, of Virginia, with himself, were ready and willing to go at once to Washington, upon protection being given by the President or Secretary of State. He also asked protection for another, whose name was not then to be mentioned. Mr. Greeley responded on the 17th, recognizing Mr. Sanders as accredited from Richmond; and in that capacity as the bearer of proposals looking to the establishment of peace. He said that he was authorized by the President of the United States to tender a safe conduct and to accompany them at the earliest time it would be agreeable. This letter was directed to the three gentlemen named. Mr. Clay and Professor Holcombe responded to Mr. Greeley, that there was some misapprehension of facts; that they had not been accredited from Richmond as stated. They said, however, that they were in the confidential employment of their government; that they were familiar with its wishes; that the circumstances disclosed in the correspondence, if they were communicated to Richmond, would at once bring them the proper authority; and that they desired to terminate the calamities of the war at the earliest possible moment. Mr. Jacob Thompson is understood to have been the third man referred to for safe conduct. The correspondence

went on until Maj. John Hay, Assistant Adjutant-General, appeared on the scene. He intervened in behalf of the President. He displayed a letter from President Lincoln, dated the 18th of July, 1864. In this letter it was stated that — "any proposal which embraced the restoration of peace, integrity of the whole Union, and the abandonment of slavery, which comes by and with an authority that can control the armies now at war against the United States, would be received and considered by the Executive of the government of the United States, and would be met by liberal terms on other substantial and collateral points, and the bearer or bearers thereof shall have safe conduct both ways."

This correspondence indicates, without doubt, President Lincoln's anxiety for peace. But a misunderstanding interposed. The safe conduct was to be given on the hypothesis that Mr. Clay and his confréres were duly accredited from Richmond. This misapprehension being corrected, the negotiations fell through. It is alleged by ex-Senator Harlan, in a letter dated April 10, 1885, that he knew that President Lincoln had no confidence in the good faith of this movement, and that Mr. Greeley had a different opinion. But Mr. Greeley was sent to Niagara. The writer agrees with Mr. Greeley and differs from the ex-Senator. The latter produces no other proof of his knowledge than an indefinite telegram from President Lincoln to Mr. Greeley. It said: "I was not expecting you to send me a letter, but to bring me a man or men." This telegram is consistent with the impressions of the author. Mr. Greeley departed from Niagara Falls regretting the sad termination of the initiatory steps taken for peace. Although this attempt was a failure, it was the first attempt looking in that direction. It led to subsequent attempts which had more reasonable probability of success.

These peace missives were phrased most cautiously; but they evinced the anxiety of President Lincoln, Horace Greeley, and other influential Republicans to end the war on "liberal terms." Mr. Greeley, in reply to the philippics of the press — in a note of the 20th of July, 1864 — stated that he had no intercourse with the Confederate gentlemen at the Clifton House but such as he was fully authorized by the President of the United States to hold, and that he had done nothing in the premises but in fulfillment of his injunction. This statement was fully confirmed in the sequence of events.

What had been going on in the Southern councils? Were the Southern statesmen contemplating measures for a peace? Henry S. Foote, Representative from Tennessee in the Confederate Congress, had tendered, as early as September, 1862, a resolution for commissioners, to be empowered to propose the terms of a just and honorable peace. A substitute not unfriendly to this object was offered by Mr. Holt, of Georgia. Both were tabled; receiving, however, twenty-six favorable votes, to fifty-nine adverse. Several other propositions were offered in the Confederate Congress in 1863, looking to pacification. Perhaps no man in the South gave more trouble to the Con-

federacy than the famous statesman, Mr. Foote. He had distinguished himself in the compromise struggle of 1850. He was then a Senator from Mississippi. Although a man of great physical intrepidity, he was not reckoned in all respects a sage adviser. Mr. Davis had been his foe in Mississippi. Their antagonisms were carried, with the changing fortunes of time, into the Confederate Capitol. Before the war ended, Mr. Foote was arrested by the Richmond authorities; but he was released on a promise to leave for the North. Those who knew him will recall his chivalric devotion to his changeful opinions. He was the author of an eccentric proposition which he offered in the winter of 1864–'65, looking to a reconstruction of the Confederate Government with the Northwestern states.

In September, 1864, peace resolutions were introduced into the senate of Virginia. Commissioners were named in them. They were discussed at length and postponed unanimously. Similar resolutions were offered in the legislatures of Georgia and North Carolina, and with like effect. Several months before this, on the 23d of May, Mr. Leach, of North Carolina, created a sensation in the Confederate Congress, by a resolution asking for an armistice and commissioners, with other provisions looking to the honor, dignity, and independence of the states, and compatible with the safety of their social and political rights. It created quite a discussion. All such discussions were damaging to the party on the defensive.

It is evident from these movements that in the South there was perpetual murmuring, either against the conduct of the war on the part of the Confederate rulers and armies, or against the condition in which the people found themselves by reason of the devastation of the war and the infractions of personal liberty by the Richmond authorities.

In the recent discussion between General Sherman and Jefferson Davis, or their friends, in relation to the position of Mr. Davis on the question of secession in and from the Southern Confederacy, the facts were not sufficiently developed for an intelligent judgment on the issue. But it is impossible to believe, or infer, from what has been developed, that the right to secede had been denied by Mr. Davis to the Confederacy, after such vigorous assertion of it by his resolutions in the Senate of the United States in 1860, and after the great hazard which he and his friends ran in practically carrying out his theory. Pertinent to this discussion, there is in the archives at Raleigh, a letter from Gov. Zebulon B. Vance to the Confederate President. This letter was written on the 30th of December, 1863. It began by confessing that there were sources of discontent in North Carolina with the Confederate Government. The governor asserted that it would be impossible to remove that discontent except by making some effort at negotiation with the enemy. He asserted that the Northern men seemed to be looking for peace, and that if fair terms were rejected, it would tend greatly to strengthen and intensify the war feeling, and rally all classes to a more cordial support of the govern-

ment. He favored a constant tender of negotiations. In doing so, he would keep conspicuously before the world a disclaimer of the responsibility of the Confederate Government for the great slaughter of our race. He would convince the humblest of their citizens that the government was tender of their lives and happiness. He did not suggest any method of negotiation, or any terms. "The effort to obtain peace," said he, "is the principal matter." Mr. Davis replied at length on the 8th of January, 1864. He desired Governor Vance to write his suggestions as to the method of opening the negotiations, and as to the terms. He spoke of the insuperable objections to the line of policy proposed by the governor. He referred to the fact that he had made three distinct unsuccessful efforts to communicate with the authorities at Washington. He said that commissioners had been sent before hostilities were begun, and that the Washington Government refused to receive them, or hear what they had to say. He referred to Vice-President Stephens, as having made a patriotic tender of his services, in the hope of being able to promote the cause of humanity. After alluding to many revolutionary memories connected with North Carolina, Mr. Davis said: "I cannot recall at this time one instance in which I have failed to announce that our only desire was peace, and the only terms which formed a *sine qua non*, were precisely those which you suggest, namely, a demand only to be let alone." He referred ironically to the fact that peace was only possible by the gracious pardon of the President of the United States, emancipation of the slaves, swearing allegiance and obedience to him and his proclamation, and becoming, in fact, the slaves of their own negroes. Waxing indignant, President Davis exclaims: "I do not believe that the vilest wretch would accept such terms for himself." He advised Governor Vance that he might count on his aid in every effort to spare North Carolina the scenes of civil warfare which would devastate its homes if the designs of the traitors in her midst should make headway. He expressed his fear that the governor would be driven to the use of force to repress treason. It was well understood that President Davis believed, if he did not say, that the war must go on until the last of his generation fell in his tracks and his children seized his musket to fight the battle, unless the right to self-government were acknowledged by the United States. "We are not fighting for slavery," said he, "we are fighting for independence; and that, or extermination, we will have." Such assertions as this had much to do with the adoption of the Thirteenth Amendment.

It has already been stated that as a part of the programme for strengthening the Federal cause, the Thirteenth Amendment was then, in that winter of 1864–'65, considered a *desideratum*. Mr. Seward and the President considered this amendment worth an army. Whether they were right or not, the amendment was not pressed until just before the negotiations at Hampton Roads, hereinafter narrated. This amendment had passed the Senate during

the first session of the Thirty-eighth Congress. It failed then to pass the House. Upon the 6th of January, 1865, it was called up by James M. Ashley, of Ohio. He moved to reconsider the vote by which it had been rejected at the previous session. The motion was debated with much acrimony. The debate was resumed with less feeling on the 9th, when Daniel W. Voorhees, then a member, now Senator, from Indiana, with rare felicities of elocution and cogency, made what was for him a temperate speech. His speech was noteworthy, because it was based upon the thorough success of the Union cause. Whether the amendment was adopted or not, — and he did not favor it, — he believed the Confederate cause was lost. It was a matter of grave doubt as to its passage. It required a two-thirds vote for its adoption; and many Democratic votes were needed to carry the measure. Mr. Yeaman, of Kentucky, and Mr. Odell, of New-York, made speeches in its favor on the same day. The debate was continued. Its effect was to consolidate the opposition. This postponed, if it did not imperil, its final passage.

Mr. Pendleton made an able speech on the 12th, in opposition. The rumor was rife that three votes were lacking. Strenuous efforts were being made to overcome the objections of members. The writer urged those whom he could influence, to consider the proposition in the light of new events. Many members, like Mr. Pendleton, doubted the power to amend as proposed. He held that the right to amend was limited in two ways: First, by the letter; and second, by the spirit, scope, and intent of the Constitution. It was a question of compact. He held that one state, the smallest,—Rhode Island, — could, of right, resist such an amendment by force. Her cause would become sanctified by God.

The writer, in answering the speech of his colleague, Mr. Pendleton, said: "The power of amendment is essential to peace, safety, and sovereignty; and it should be remembered that, even if the power may now threaten to destroy, the power to save is forever bound up with it. Under the very ribs of death, at the last moment this power may be invoked to create the heart and soul of union, and that, too, by the array of states in their sovereign capacity as modified by their granted powers." This remark had reference to the rumor that a commissioner of the United States was then in Richmond — Mr. Blair — with the confidence and assent of the Administration, to meet a commissioner on the part of the Confederate authority; and that they had agreed to call a national convention, in correspondence with the Chicago platform upon which Mr. Pendleton had been a candidate for Vice-President. In arguing upon the power to pass the constitutional amendment abolishing slavery, the writer said: "If a convention of states could take jurisdiction to protect property, it could do so to destroy property. It is admitted that the states individually could do this. If by the Constitution, they as states consenting to it have provided a mode of doing it, what matters it whether it be done by them in their individual capacity or in their

conventional capacity? Whenever two-thirds here agree to propose an amendment, and three-fourths shall ratify, either by convention or legislature, that proposition becomes a part of the Constitution. It is the states that do this in the first instance,—all according in making the amendment clause; all again according by their conventions in proposing, and again by ratifying." There, the writer joined his colleague in singing hosanna to that principle of our government known as the sovereignty of the states. All the states, sovereign in their reserved spheres, dropped their sceptres before the Federal emblem in all cases where, as in the making of an amendment, the Constitution is declared to be the supreme law of the land. It did not matter that the power was dangerous when left unlimited in the Federal head; for all power tended to abuse. It had been argued that the states were unlimited and absolute in their sovereignty, and therefore that the Federal Government was not sovereign. Was it forgotten that the states, in their unlimited and sovereign convention, deriving their powers from the original consent of all, gave up portions of their sovereignty and modified it, as Mr. Calhoun held, by the mandatory clause? The states were the constituent elements of the Federal Government, and by their state action they could create and they could destroy. The writer, after quoting Mr. Madison in corroboration of his argument, quoted Mr. Calhoun upon the subject. That quotation absolutely settled the proposition in the minds of the House. It was found in the sixth volume, page thirty-six, of his works. In 1828, the South Carolina Legislature asked the opinion of Mr. Calhoun upon this and kindred subjects. In his declaration of political powers, drawn up for his state, he taught that the people of that state by adopting the Federal Constitution had modified its original right of sovereignty; and that, by its consent in becoming a member of the Union, a portion of that sovereignty had been placed in the hands of three-fourths of the states, in whom, he said, the highest power known to the Constitution exists.

The right, therefore, to abolish slavery by the mode prescribed in the Constitution, was vindicated by the *dictum* of the leading philosopher of the state rights school. Quite a discussion arose during the debate, as to where the power was lodged or limited in relation to the abolition of slavery. Before the debate was concluded, however, very few upon either side denied that the power to amend was unlimited, save by the exceptions mentioned, and save by the mode prescribed in the Constitution. That mode is the only safeguard against unwise amendments. It is ample, however, inasmuch as no amendment can be made except by the concurrence of two-thirds of the Congress and three-fourths of the states. On the 10th of January, 1865, while Mr. Kasson was speaking, Mr. Mallory, of Kentucky, asked whether, by an amendment of the Constitution, the government might not be changed so as to convert it into a monarchy, aristocracy, or a despotism. Mr. Kasson evaded the question, but, with his permission, the writer answered it by

saying: "I carry the Democratic doctrine to such an extent, that I maintain that the people, speaking through three-fourths of the states, in pursuance of the mode prescribed by the Constitution, have the right to amend it in every particular, except the two specified in that instrument; that this includes the right to erect a monarchy; to make, if you please, the King of Dahomey our king." This expression excited surprise upon both sides of the House. It was animadverted upon by Mr. Pendleton and by others, who had given much study to the question. But as the debate progressed, this construction of the power to amend became the fixed opinion of a majority even of those who thought it then inexpedient to use the power. Mr. Boutwell held the power to be limited only by the preamble of the Constitution. Mr. Thayer thereupon argued that that was equivalent to saying there are no limitations, which was his own position. Mr. Dawes, grasping the question comprehensively at once, argued that since the preamble was submitted to three-fourth of the states, they were the law-makers and law-expounders, who could as well alter the preamble as any other part of the instrument; that it was competent for them, as a tribunal from which there was no appeal, to say that anything, save the limitations prescribed by the instrument itself, does or does not contribute to the ends set forth in the preamble, even to the extent of permitting a man of foreign birth to be chosen President,— even the King of Dahomey himself,— with which Mr. Thayer and others agreed.

A few quotations will be pardoned from this speech, as the theme was the capital one of the war, and the *bête noir* in the path of peace. Having proved that the strictest sect of Southern statesmen, including Davis himself, Jefferson, and John C. Calhoun, acknowledged the power by amendment over this subject of slavery, and sought to exercise it, and sought further by amendment to prevent its exercise when it might impair or destroy their institution, the writer then said, addressing the Chair: "Is my colleague (Mr. Pendleton) a better states rights man than Jefferson Davis? Or, to drop to the other extreme, does he, *nunc pro tunc*, join my other colleague (Mr. Ashley), who then denied, and yet denies, the power by amendment to establish slavery, as unrepublican? It was with some amusement that I listened to my two colleagues (Messrs. Pendleton and Ashley) yesterday. How adroitly the Democratic member sought to catch the Republican. How he plied him to admit the power to establish slavery! How shrewdly my colleague on the other side evaded! On the other hand, members on the other side sought to entangle my colleague (Mr. Pendleton) with some of his former votes! How both evaded the issues presented in their former positions! while the humble member who now addresses you, sir, sat complacently consistent amid the melo-dramatic performance, ready to admit that the power to change the fundamental law by amendment is unlimited, under the guards and modes prescribed, even to the establishment of slavery or a monarchy of entire freedom or entire democracy. Both of my friends deny this as ex-

treme and heterodox: the one, because he would have nothing but limited republicanism as the form of our government; — that is my Democratic colleague who is so republican; the other, because he would have nothing but sweeping democracy as the basis of our Constitution; — that is my Republican colleague who is so democratic. The wishes of each color their present arguments as to power. When slavery is to be guaranteed, my colleague from Cincinnati believes with me in the power to amend, and my colleague from Toledo denies it. When it is to be abolished, my colleague from Toledo believes with me in the power to amend, and the other denies it. Both deny the power when slavery is to be affected, and both admit it when slavery is to be affected. I have them both on either side, and each on both sides, and both with me. I accept the power in either case as they claim it, but go beyond them both; for I stand on a principle. They are enamored of the power only when one case is absent. Like the fond lover of two maidens, they love the one "when the other dear charmer's away." Yet they are unfaithful to both, because they are so attached to either — unfaithful, because they are not upon the principle. I can extend to them (as a member from New-York used to say here in olden times), from the serene Olympian heights of my cerulean consistency, the eternal principle of republicanism and democracy which will reconcile them both to duty and the Constitution. Both my colleagues hold that to concede the power and exercise it in certain cases is to subvert the Constitution. If slavery is to be protected, the member from Toledo believes the government destroyed. His only appeal is to the sword of revolution. Never would he consent that the power to amend should include the power to establish slavery in Ohio; never. He would sound the tocsin of inevitable resistance. If slavery is to be abolished by the same power, the other member blows the trumpet and beats the drum to revolutionary defiance. Both march to the same discordant music, when if they would take Calhoun, Story, or their own practice and principles, only changing the time of their application, they would find in the granted power to amend an unlimited authority as to the matter, and only limited as to the mode. My colleague (Mr. Pendleton) derives, unconsciously, his language from the South Carolina declaration of independence of Dec. 24, 1860. It says:

"'Observing the forms of the Constitution, a sectional party has found within that article establishing the executive department, the means of *subverting* the Constitution itself. The sectional combination for the *subversion* of the Constitution has been aided by the elevation of the blacks.'

"The other member (Mr. Ashley) regards the denial by South Carolina of President Lincoln as the legal President as the very essence of subversion, and the denial of franchise to the blacks as subversive of republicanism. He, therefore, strikes out the word white in his reconstruction bills. Where gentlemen so eminent disagree as to what is subversion, and what is change

or amendment, where is the tribunal to decide? I answer, in Congress by two-thirds of both houses, and in the states by three-fourths of the legislatures, and in the intelligent sovereignty of the people of each state who have, *in limine*, consented to this mode of amendment."

The significance of the conclusion of the remarks made then by the writer, becomes now apparent. They elucidate what followed on the final passage of the amendment:

"Speaking for myself, slavery is to me the most repugnant of all human institutions. No man alive should hold me in slavery; and if it is my business, no man, with my consent, shall hold another. Thus I voted in 1851, in Ohio, with my party, which made the new constitution of my own state. I have never defended slavery; nor has my party.

"Hence, I do not place my suggestions about this measure on any ground of the immutability of the Constitution, or of our peculiar system. I place my vote against immutability, because the system it would change is a good one, made in wisdom, and to be perpetuated for the future happiness of the people. If the system of internal police over state matters is not of value, discard it altogether. Deny to Ohio her right to declare who are born in wedlock, and who may inherit estates; deny to us the right to have our home courts for home justice; centralize all power here, in one head, and make the federation a despotic tyranny. I may admit the wrong of slavery. It may be heinous in sight of God and man. I may admit the power by amendment to abolish it. I am a radical Democrat, and believe in amendments of all organic laws in pursuance of the mode prescribed. I may admit that such an amendment would impair only for a brief time the checks and balances, the very substance and essence of our federative system; and yet I ask you, on the other side, whether, if I believed that this amendment would place an impediment, insuperable to the restoration of the Union, I ought to vote for it? If I believed that the Richmond authorities would not meet us in convention, and would stand out against the Union on their independence, I might consider anew what I ought to do. I have no authentic information in that regard. So long as there is a faint hope of a returning Union, I will not place obstacles in the path. I will rather illuminate, cheer, and clear the pathway to the old homestead. If I believed, Mr. Speaker, that peace could be restored with the Union by the abolition of slavery, I would vote for it. All I do, and all I forbear to do, is to save our imperiled government and restore our priceless Union. Show me that that will be the result, and I will vote for your amendment. But, as it stands to-day, I believe that this amendment may be an obstacle to the rehabilitation of the states.

"But if it is determined in the South, as it seems to be, that rather than fail in independence slavery shall go, I for one, as a Democrat, shall be ready to reconsider my resolution. The party to which I belong loves the Union

as dearly as the South loves slavery. If they can let slavery go for independence, the Democracy can let it go for the sake of the Union. If the South should refuse to meet us in convention and abide by its arbitrament, then there is no hope for slavery. If the South obtain independence, it will be by freedom to the slaves and their enrollment as soldiers. If they do not obtain their independence, then between the collisions of the belligerents the institution will be gone, and it matters little what becomes of this amendment so far as its own peculiar subject is concerned. So far as the Union slave-holding states are concerned, they are rendering this amendment useless. Missouri on yesterday almost unanimously voted to abolish slavery. Maryland has already done it, whether by force or freedom it is not now my purpose to inquire. Kentucky will be enforced to do the same. What remains? Little Delaware. She had in 1860, eighteen hundred slaves, and the enlisting agents have mostly sold them out to this humanitarian government for soldiers costing $150 apiece in Delaware and selling for $1,000 in New-York! Surely Delaware will soon be free!

"It may with some propriety be urged that slavery is already dead. It has the seeds of speedy dissolution. The blows of war are breaking down its panting, exhausted body. If, then, slavery is dead, what is the object of this amendment? A distinguished gentleman told us that, like Pharaoh and his hosts, the South had rushed with slavery into the Red Sea of war, and that slavery was destroyed. Well, if that be the case, if slavery is dead, where is the necessity for invoking this extraordinary power of amendment? This amendment, according to the argument of gentlemen on the other side, amounts to nothing. It is a mere *brutum fulmen*. It is only the register, in other words, of what the war power with its blows is accomplishing day by day. If gentlemen opposite really believed that slavery was dead, they would not bring in this amendment. They do not believe it. But there are men on that side of the chamber who will not favor a restoration of the states until this amendment shall have become an organic law. Therefore it is that they pertinaciously press this matter, even while negotiations are going on for the return of the states to a national convention, and for the return of peace and fraternity among the states."

At last the decisive day approaches. The last day of January, 1865, is here. The House recurs to the amendment. Speeches are made *pro* and *con*. Three Democrats speak for the amendment. They are Coffroth and McAllister, of Pennsylvania, and Herrick, of New-York. They vote as they speak. Messrs. Ganson, Odell, Steele, Radford, Nelson, and Griswold of New York, Baldwin of Michigan, King and Rollins of Missouri, Hutchins, Brown of West Virginia, English of Connecticut, and Yeaman of Kentucky, also vote for it. Several members who are expected to vote for it are absent, designedly as it is alleged. Every Republican is in his seat, and for the amendment. The roll is called at four o'clock in the

afternoon. Mr. Speaker Colfax, at the end of the roll-call, says, in ringing tones: "Call my name as a member of this House!" He votes "aye," amidst applause. Radford and Steele change their votes in its favor, on the final passage. They are vociferously applauded by crowded galleries. Members keep careful tally, and give intense attention. The result is announced. There are hand-shakings, hilarities, and congratulations. Members are crowded in the hall by those admitted to the floor. A jubilee revels in the chamber.

It was incomprehensible to some, that, while admitting the power to amend, the author did not vote for the amendment. He had left himself free to vote for it, in case its passage would not interfere with attempts at peace negotiation. He had several conferences with party friends with that object. He was anxious, as a Democrat, and with a view to the upbuilding of the party he cherished, to drive this question, which had become abstract by the death of slavery through powder and ball, from the political arena. Many agreed with him whose votes were recorded with his against the amendment. He fully intended, when he came to the House at noon of the last day of January, when the vote was taken, to cast his vote for it; for he had said, publicly and privately, that if all hope of negotiation had failed and the South stood upon its independence, and the people were freeing their negroes for soldiers, he would not stop to consider further. The amendment would no longer be a block in the path of reconciliation and union. He had been advised by high officials that no further negotiations were possible; that so Mr. Blair, senior, had reported, who had just come from Richmond. But on arriving at the House at half-past twelve, the writer learned that commissioners were actually waiting to be conducted over the lines. Mr. Ashley had been sent to learn if this were true. Mr. Ashley inquired of Mr. Nicolay, the President's private secretary, who was present in the hall. The latter declared that he knew of no such commission. The writer begged Mr. Ashley, as his vote depended on that fact, to inquire of the President. Mr. Ashley wrote a note, to which the President, about half-past one o'clock, responded that he knew "of no such commission or negotiation." This was signed "A. L." It was shown to the writer, who made further inquiries, He was satisfied that either the President was mistaken, or was ignorant of what was transpiring at General Grant's headquarters. It was upon information obtained from other than official sources that the writer voted. It proved to be correct information; for it afterward appeared that the commissioners were in front of our army on Sunday afternoon. This was two days before the amendment came up for action, which was on Tuesday. They were delayed two days exactly, because of the absence of General Grant at Wilmington. He arrived on Tuesday, and forthwith dispatched a messenger to Wilmington with the information as to the nature of the communication they wished to make. These facts show that the President, Mr.

Nicolay, and General Ashley were correct in advising the writer as to their ignorance of the presence of the commissioners at headquarters on Tuesday noon. In some inscrutable way there were men in Congress who were better advised as to their presence than Mr. Ashley or the President. Upon fair assurance the vote of the writer was withheld from the affirmative. He believed it to be then perilous to peace to pass the amendment. It would have been an impediment to negotiations. It was an obstacle, as it turned out, notwithstanding Mr. Seward's belief that it was an aid. Whether the author's vote was correct or not, it was given upon the belief that, in the negotiations then about to be begun at once, this amendment would prove an obstacle to peace and union. Weighing in one scale the dead body of slavery, which was to be formally abolished by this amendment; and in the other, peace and union,— and these latter without slavery,— how could he doubt the unwisdom of an amendment which would postpone peace and imperil the Union? But the speech below quoted, which was matured in advance of these hurrying events, is the test by which the author's motive and judgment are to be tried. It was not delivered; and it never saw print before its appearance on this page!

"Mr. SPEAKER: Some weeks since, I appealed to the other side to make efforts for peace; and I said then that I would consider this amendment under new lights. I then said, that if Jefferson Davis would refuse to confer on the basis of the unamended Constitution, I would reconsider my views. I urged, personally, the President upon this point. The Blair mission was an honest effort for peace. Of all things, that was most desirable,— with union. Again, on the 12th inst., I discussed the power of amendment, and found no objection except to its exercise then. All that I did, or forbore to do, was for the Union. If the South stands on independence, I will vote this amendment. The party I belong to loves the Union as well as the South loves slavery. If the South could discard it for independence, I can for the Union. This was my view before negotiations. They are ended. The ultimatum came in writing. I knew just what the negotiations were and how they ended. 'Separation, recognition. We will treat on no other basis.' They are again preparing for war. They still defy us. If they obtain their independence, this amendment will affect nothing but the North and the adhering border states. All the adhering slave states, save Kentucky, are now free states. I have here a letter from Mr. James Guthrie, of Kentucky. It states that though Kentucky does not wish to abolish slavery herself, she would be glad to have the ship clear of the wreck. 'The scars which are to be made in the Constitution on the road to peace and reunion are not of our making, but find their apology in the evils and necessities of the times.' These are his words. If the South wish to defeat this amendment, they can come back in two years and kill it in the states. If they do not come back, it is of no consequence. If they do come back, war will have already de-

stroyed slavery. In a party light, slavery was not mentioned at Chicago in the platform. It will not be a question of party fidelity or obligation. We will carry no more wrongful odium for slavery into our campaigns. We will have no more defeats. I am instructed by my state [Ohio] to vote for this amendment. My district is for it. I will take the responsibility, after all efforts for peace and union fail, to rid the party of these questions as to manhood and bondage, and assist to turn the issues upon finance, tariffs, foreign affairs, and personal liberty. I will cheerfully take reproach from those who in one breath hold the Constitution to be an indenture of partnership, to be broken by any party to it, and in the next say it is so binding as to be immutable. Differing from such, I will vote to thrust the question of slavery from politics and Congress forever."

In striving to stay hostilities and prevent butchery, the author unconsciously saved his personal probity from undeserved reproach. This is the incident: He was boarding at the house of an active radical Republican who had been on General Fremont's staff. This man had heard read the speech above quoted. He inferred correctly its bias for the amendment. The writer had spoken, in confidence, about the table and under the roof of this landlord of his intention to vote for the amendment. One vote was then most momentous to make the requisite two-thirds. This ex-soldier of fortune counted, in a mercenary way, on improving his purse by his confidential information. When the writer returned to his Tuesday dinner, having given under the circumstances an adverse vote, the irascible radical broke forth into such a torrent of abuse against the writer, that the latter left the table in disgust and bewilderment. The abuser in his wrath averred — what he afterwards, when stricken with blindness and repentant, directed his good wife to asseverate in writing — that he was to get ten thousand dollars from New-York parties for influencing the writer's vote favorably to the amendment. The writer discovered the party who raised the fund which was said to be ready and freely used for corrupting members. Can anything be conceived more monstrous than this attempt to amend the Constitution upon such a humane and glorious theme, by the aid of the lucre of office-holders? This statement was made in Congress after the war, in response to Mr. Dawes, and with much detail. It was never challenged. It is true.

The amendment required for its ratification twenty-seven of the thirty-six states. There were enough in the Union. They were "loyal" enough to carry it. Its ratification began in Maine, on the 7th of February, with the firing of a hundred guns. It ended, not without much adverse criticism on the compulsory measures resorted to for its ratification, when the Secretary of State announced the result in a formal statement to Congress. Although there was much questioning as to whether the President's proclamation abolishing slavery would be valid, — much questioning North and South, —

no one questioned any longer the power of Congress to submit the amendment in the form of the Senate proposition.

Whether the consultation had by Mr. Stuart and the author with the President during the holidays had, or had not, impressed the latter so as to energize a movement for peace, it is certain that upon New Year's Day it was bruited about Washington that Frank P. Blair, Sr., and his son, Montgomery Blair, had gone to City Point upon a mission of peace. It was alleged that they had gone there to meet the representatives of the Confederate Government. The truth, as it transpired afterwards, was that the elder Mr. Blair had gone to Richmond to see his old friend, Jefferson Davis; for what purpose, the sequel will develop. When Mr. Blair went on his mission he was denounced at Richmond as a spy. It was said that he deserved hanging. It was charged that he had sinister designs, and that he wished to break up the Confederacy by intrigue. He arrived at Richmond on Wednesday evening, January 11th. General Singleton, of Illinois, an ultra-peace Democrat of pronounced views, also had safe conduct to Richmond. At the same time Mr. Stanton was on his way to Savannah with less of healing on his wings. But it was not known that either General Singleton or Mr. Blair was clothed with powers to conclude negotiations or bind the Federal Government. It was only hoped that by conference with the leaders South, the war might be ended by future negotiations. Mr. Blair returned to the Federal capital on the 16th of January. His mission was given out as one of a private nature. He was, as it was alleged, looking after the title-deeds of certain property. But it was said by the Richmond journals that he only came to see the cards in the Confederate hands. Montgomery Blair did not accompany his father any further than City Point. There is no room for doubt as to the business the father had in charge. The authentic account of the interview is published in Jefferson Davis' second volume. This paper is labeled a "Memorandum of a Confidential Conversation held this day with F. P. Blair, of Montgomery County, Maryland." It is dated "Richmond, Virginia, January 12th, 1865." After reciting some immaterial matters about obtaining permission from Mr. Lincoln to visit Richmond, and that he was a man of Southern blood and felt anxious to see the war between the states terminated, Mr. Blair stated to Mr. Davis that he had two appointments to converse with Mr. Lincoln about the object of his visit to Richmond. On each occasion he was disappointed. He concluded that Mr. Lincoln avoided the interview. Therefore, he came not only without credentials, but without instructions from Mr. Lincoln. His views, therefore, were his own. "Perhaps," he said, "they are merely the dreams of an old man." He asked permission to read the rough draft of a letter which he had prepared. "I allowed him to read it without comment on my part," says Mr. Davis. "When he had finished as to his main proposition, the cessation of hostilities and the union of the military forces for the common purpose of maintaining

'the Monroe Doctrine,' he said that both the political parties of the United States asserted the Monroe doctrine as a cardinal point of their creed, and that there was a general desire to apply it to the case of Mexico." For that purpose a secret treaty might be made. After referring to the attempt to negotiate, on the part of Mr. Davis, and its failure heretofore, Mr. Blair expressed the belief that Mr. Lincoln would not receive commissioners. He proposed to return to Washington to explain his project to Mr. Lincoln. He affirmed that Mr. Lincoln did not sympathize with the radical men who desired the devastation and subjugation of the Southern States, but that he was unable to control the extremes of his party, which now had great power in Congress, and would at the next session have still more. He avowed an earnest desire to stop the further effusion of blood, as one whose every drop of blood was Southern. He expressed the hope that the pride of power and the honor of the Southern States should suffer no shock. He looked to the extension of Southern territory even to the Isthmus of Darien. He reiterated the idea of state sovereignty, with illustrations. After other conversations, detailed at length in this memorandum, the conference ended. It had no other result than an agreement that Mr. Blair would learn whether Mr. Lincoln would adopt his project, and send, or receive commissioners to negotiate for a peaceful solution of the questions at issue. He would report to Mr. Lincoln, Mr. Davis' readiness to enter upon negotiations, and that there was no insurmountable obstacle to such a treaty of peace as would secure greater advantage to both parties than any result which the existing conflict of arms could achieve.

Mr. Blair confirmed this memorandum as verity. Mr. Davis expressed his willingness to enter into negotiations for the restoration of peace, and his readiness to send a commission when he had reason to suppose it would be received, or to receive a commission from the United States Government if they should choose to send one. But he was very guarded in his statements, as will appear by the expression — that he would "thus renew the effort to enter into conference, with a view to secure peace to the two countries." Mr. Lincoln, on the 18th of January, wrote to Mr. Blair that he had seen Mr. Davis' letter to him, and that he might say to him that he had constantly been, and was now, and should continue — to quote the words — "ready to receive any agent whom Mr. Davis, or any other influential person now resisting the national authority, may informally send to me with a view to securing a peace to the people of our own common country." It will be observed that, like special pleading, the issue was clearly made. Mr. Lincoln puts himself upon one country, and Mr. Davis upon two countries.

A suggestion was made that Generals Lee and Grant might enter into an arrangement by which hostilities would be suspended and a way paved for peace. Mr. Davis has said that he acquiesced in such a negotiation. The

conference ended and Mr. Blair returned to Washington. The military convention idea was not favorably received at Washington.

Again, on the 20th of January, Mr. Blair made another visit to Richmond. He embarked on a United States steamer from the navy yard. Before his return the Confederate President was called upon to explain his view of negotiations for peace. He ridiculed the idea of treating with states like Louisiana, Tennessee, Kentucky or Missouri, which were in and out of the Union. "Would delegates be received from both sides?" he asked. "What of West Virginia? Would Virginia enter into a convention with West Virginia?" These were puzzling problems.

The radicals in Congress began a crusade against the effort of Mr. Lincoln for peace, and the mission of the senior Mr. Blair. Resolutions were introduced denouncing negotiations, and demanding war to the end. Senator Harlan and others led those fierce radicals. They even demanded retaliation instead of conciliation. They desired no peace until the conditions were fixed. These included the abolition of slavery by an amendment of the Constitution. The writer recalls the wild rumors then prevalent about closing the war. It was said that Mr. Seward was at the bottom of it all. Stories were current about Mr. Blair's reception by Mr. Davis, and by Mrs. Davis — with a kiss. Another rumor was, that Mr. Blair brought back from Mr. Davis a communication for Mr. Lincoln asking for commissioners representing "two countries." This was near the truth. The writer distinctly remembers that, inasmuch as he had urged President Lincoln to reach out the hand of amity, he inquired of the President and of Mr. Seward as to the result of the Blair mission. He was distinctly informed by both that Mr. Davis refused to treat unless his government was recognized as an independent nation. To this Mr. Lincoln and Mr. Seward would not listen for a moment. It was given out in Richmond, on Mr. Blair's second mission, that the enemy were willing to permit the Confederates to dictate their own terms, "provided only, we will not dissolve the Union." The truth is, Mr. Blair found great confusion in Richmond. Although the mission failed in results then, it brought forth fruit afterwards. Without an armistice and a recognition of independence, Mr. Davis could not take the responsibility of initiating proceedings to end the war. Many who wished the trial made were now satisfied, although the failure was disappointing.

It was alleged that Mr. Blair's was a partisan mission; that he desired to strengthen the Republican party by demonstrating the truculent and hopeless recusancy of the Confederate President and his friends; and that by its failure, President Lincoln would know how to point and paragraph his Inaugural. The opinion of the writer is that the mission was meant in good faith; and that while it was intended to induce members like himself to vote for the Thirteenth Amendment, when it was seen that there was no hope

after a fair effort for peace, it was no less a legitimate and honest endeavor. So history should record it.

Horace Greeley was instrumental in hastening this advent of Mr. Blair upon Virginia. His paper was not uncandid when it said that the visit would give a clearer understanding of the differences North and South, and of the reasons or the ends for which further bloodshed might be deemed necessary. It was no idle rumor which said that President Lincoln would propose, through the elder Blair, to Jefferson Davis and his followers, an exit over the Mexican frontier. Once over as armed emigrants, they were to be furnished with the necessary means for a permanent lodgment. There they could erect a splendid government upon the ruins of the cause of the imperial puppet of France — Maximilian. There they could vindicate the Monroe doctrine and revel in a confederacy all their own. Such were the phantoms born of war and its disasters.

In pursuance of the understanding between Mr. Blair and Jefferson Davis, Messrs. Alexander H. Stephens, Robert M. T. Hunter, and John A. Campbell were accredited, with a certificate of appointment, as commissioners to proceed to Washington for conference upon the subject to which it related; or rather for an informal conference with President Lincoln upon the issues involved in the existing war, and for the purpose of securing peace to the "two countries." Upon the 2d of February, 1865, they arrive at Fortress Monroe upon General Grant's flag-boat, the M. Martin. It anchors near the River Queen, on which is Secretary Seward. The commissioners are treated with marked courtesy. They dine with the Secretary on board his vessel. The fastest boat of the bay, the Thomas Collyer, arrives at Old Point Comfort at ten o'clock that night. It has made the fastest run on record, although the weather is severe and the bay full of ice. It has on board no less a personage than President Lincoln. He advises the Secretary of his presence. The parties do not land. Steam on water was weaving an interchange of civilities and duties in this supreme hour. The parties meet the next day on board the River Queen. Students may be reminded by this incident, of the romantic interview upon a raft in the river Nieman, between the great Napoleon and the Czar Alexander, to open negotiations for peace after the long war between Prussia, Russia, and France.

On what do these Federal and Confederate dignitaries confer? All the vexed questions, emancipation, amnesty, debt, finance, and the Monroe doctrine are under discussion. Great hopes are excited that the preliminaries of peace have been agreed upon. Gold drops down to 202. The ultimatum is delivered to the commissioners. They leave for Richmond. The next day the Cabinet at Washington meets. The President opens his budget. All approve of his propositions. They approve of the simplicity and lack of punctilio which characterized the conference. They look to the great end. All minor questions have been subordinated by the clement President to stop bloodshed, and only the main topics are uppermost in his thoughts.

Mr. Seward had proposed that the conference should be confidential. This calls for an objurgatory paragraph from Mr. Davis in his published narration of the affair. Mr. Davis thinks that the views of Mr. Lincoln had changed after he wrote the letter of June 18th to Mr. Blair. This change he attributes to what Mr. Blair heard and saw at Richmond. What he saw and heard involved a conflict in the very heart of the Confederate councils. The report of the commissioners to the President of the Confederate States was dated on the 5th of February, 1865. It says nothing that, apparently, changed the course of events or the previous state of affairs. It affirms that the commissioners understood from President Lincoln that no terms or proposals of any treaty looking to an ultimate settlement would be entertained or made by him with the authorities of the Confederate States. To treat with the latter would be a recognition of their existence as a separate power. Under no circumstances would he permit this. For a like reason, no such terms would be entertained by him for the states separately. No extended truce or armistice would be granted without a satisfactory assurance, in advance, of the complete restoration of the authority of the Constitution and laws of the United States over all the places within the states of the Confederacy. All the consequences which would follow the re-establishment of that authority must be accepted. Mr. Stephens had previously intimated that a surrender was not thought of. He said to Mr. Lincoln that his colleagues and himself had no power for their own abdication. "Your proposition," then said Mr. Lincoln, "is for independence. Mine for submission. We cannot agree."

In this report, the commissioners plainly indicate that the President had his mind fixed, without malice toward any and with charity for all. He proposed if peace were restored, a liberal use of the power confided to him, to remit pains and penalties. During the conference a significant reference was made to the 31st of January and the passage of the Thirteenth Amendment. The result of the conference was that there could be no arrangements as the parties were then situated.

The comment, by those who looked at matters in a sinister way, upon these remarkable meetings of the elder Blair with Jefferson Davis and the commissioners with Lincoln and Seward was, — that Mr. Blair was a scout, and the Hampton Roads conference an official reconnoissance. If such had been the object it was successful; but the conferences were, undoubtedly, intended to lead in good faith toward the cessation of hostilities and the restoration of the Union. What the commissioners sought they did not get—an armistice and recognition. What the President sought he did not get—immediate submission. The reports of the respective Presidents show that negotiations were impossible on any other "terms," as Mr. Davis phrased it, "than those which the conqueror may grant."

Mr. Seward, in writing to Mr. Adams, Minister at London, under date

of Feb. 9, 1865, states that the conference lasted four hours, and that all points of difference were discussed amicably. Then he adds this significant sentence: "What the insurgent party seemed chiefly to favor, was a postponement of the question of separation, and a mutual direction of both sides to some extrinsic policy or scheme, for a season, during which passions might be expected to subside and the armies be reduced, and intercourse between the people of both sections be resumed." It is no part of this narrative to discuss what might have happened had this extrinsic proposition as to Maximilian, which first emanated from Mr. Blair and was now propounded by these commissioners, been adopted. Fancy plays with supposititious situations. The verities discard them as "stuff that dreams are made of."

Upon the 6th of February, 1865, the writer offered a resolution in the House of Representatives, stating that the gratitude of a suffering and distracted country was due to the President for endeavoring, with a view to negotiations for peace and the restoration of the Union, to ascertain the disposition of the insurgents; and that with a similar view he be respectfully requested to omit no honorable exertions thereafter which might lead to the desired object, to wit, peace and union. Against this humane testimony for the American people, thirty-one Republicans in Congress assembled, voted, while one hundred and five of all parties voted in favor of it. This resolution greatly disturbed the extremists. Still, only one-third of that party opposed the resolution on the vote; but in private they were furious in their opposition to any effort toward peace except through war. The writer was surprised that such leaders as Henry Winter Davis, Governor Frank Thomas, of Maryland, Windom, of Minnesota, Wadsworth, of Kentucky, Morrill, of Vermont, Dawes, of Massachusetts, and Allison, of Iowa, should have opposed a tribute to their own President for such an exercise of his prerogative; but he was not surprised when Thaddeus Stevens led his small phalanx in opposition, among whom were found two ultra Democrats who disliked the President so much that they would not seek even the ways of peace and pleasantness at his hands. These were Rogers, of New Jersey, and Long, of Ohio.

One result of these conferences, or rather of their failure, was to give fresh impulse to the passage of the bill for six hundred millions of dollars. Another result, running to extremes, was a measure which the writer defeated, and which had in a former session been vetoed, concerning the "forfeiture of real property owned by rebels," so as to confiscate the fee simple beyond the natural lives of the owners. On the motion to lay this bill on the table, the yeas were 72, the nays 71. What a rich fund of attorney fees, what a wrangle of litigation, was thus avoided by adhering to the Constitution in reference to attainder and confiscation and corruption of blood.

In other respects the Union cause was the gainer by the Hampton Roads

transaction, while the Confederates were the losers through distraction in council and discouragement everywhere. The duty prescribed now for the North was to conquer a peace, since peace could not be gained by treaty. The North aroused itself to give a finishing blow to its brave but now staggering opponents.

On the 10th of January, 1865, a debate was sprung upon the House in regard to these peace negotiations. It was opened by James Brooks, of New-York. He favored an armistice. He vigorously assaulted the President's action. Thaddeus Stevens answered in a fierce onslaught on Jefferson Davis, and the position which he assumed for the Confederate Government as an independent state. The saturnine Pennsylvanian had forgotten that he had by his own speeches and action regarded the Confederacy as an independent power. The writer answered both speeches as extreme opinions. He defended the meeting at Hampton Roads. He asserted that if it were followed up it would lead to peace and reunion. He quoted General Grant's statement, that he (the General) was convinced, by conversations with Messrs. Stephens and Hunter, that their intentions were good, and that their desire to restore peace and union was sincere. "If we fail," said the author in conclusion, "to make peace, the fault will lie at the door of the radicals." The war fiercely continued to do its bloody work until April 19, 1865. Then peace was gained. It was contained in this simple proposition of General Grant:

"By the South laying down their arms, they will hasten that most desirable event, save thousands of human lives, and hundreds of millions of property not yet destroyed." General Sherman, a short time afterward, made the same terms with General Johnston for the disbandment of the army of the latter, which were given to Lee at Appomattox. Thus ended the most momentous war known to history.

CHAPTER XVII.

PRESIDENT LINCOLN'S POLICY OF RECONSTRUCTION.

THE AMNESTY PROCLAMATION — THE OATH OF ALLEGIANCE — THE CONDITIONS OF PARDON — THE EXCEPTED CLASSES — RECONSTRUCTION BILL IN THE HOUSE — MILITARY PROVISIONAL GOVERNORS — THE QUALIFICATION OF VOTERS — ELECTION OF MEMBERS OF CONGRESS — SENATE AMENDMENTS REJECTED — THE BILL PASSES CONGRESS — IT FAILS TO BE SIGNED BY THE PRESIDENT — ITS POLICY ADOPTED BY HIM — CRITICISMS OF HIS PARTY — MR. LINCOLN'S MODERATE VIEWS — NEGRO SUFFRAGE PROPOSED — EXTREME MEASURES DEVELOPING — AUTHOR'S ESTIMATE OF LINCOLN.

IN his annual message, dated Dec. 8, 1863, President Lincoln gives at length his reasons for issuing the Amnesty proclamation of the same day. The latter offers terms of reconciliation and a restoration of political rights and relations under the government to the people of the Confederate States. The policy is for a general amnesty with some exceptions. The preamble to the proclamation recites the clause in the Constitution which provides that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." Reference is made to the acts of Congress declaring forfeitures and confiscations of property and the liberation of slaves. The President then grants the amnesty and pardon in these words: "Therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known to all persons who have directly, or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them, and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:

"I, ————————, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the union of the states thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support all proclamations made by the President during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court, so help me God."

The persons first excepted from the privileges of amnesty under this proclamation are: all those who left judicial stations, or seats in Congress, or the army or navy of the United States, to take part in the rebellion. Further exceptions are: all army and navy officers in the service of the Confederacy above the grade of colonel in the army or lieutenant in the navy, and all, of whatever grade, who maltreated colored or white prisoners of war. The conditions of amnesty were those which, under the act of Congress, the President was authorized to impose. They were deemed essential to the restoration of peace and union. Under the conditions of this proclamation, Mr. Lincoln sets forth his mode of reconstruction in these words: "Whenever, in any of the eleven states in rebellion, a number of persons not less than one-tenth of the number of votes cast in such state at the Presidential election of the year of our Lord one thousand eight hundred and sixty, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the state existing immediately before the so-called act of secession, and excluding all others, shall re-establish a state government, which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the state, and the state shall receive thereunder the benefits of the constitutional provision which declares that 'The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or the Executive (when the legislature cannot be convened), against domestic violence.'"

While President Lincoln insisted that the freedom of the negroes must be recognized, he fully appreciated the "confusion and destitution" which would attend a sudden disruption of the labor system. On this subject he proposed in his message to acquiesce in any reasonable temporary state arrangement for the freed people which might be made with the view of modifying the confusion and destitution which must at best attend all classes by a total revolution of labor throughout the Southern States. He expresses the hope that the already deeply afflicted people in those states may be somewhat more ready to give up the cause of their affliction, if, to that extent, this vital matter be left to themselves; while no power of the national Executive

to prevent an abuse is abridged by the proposition. The proclamation also declared that the Executive claimed no right to insure to the reconstructed states a representation in Congress. That matter the President regarded as being exclusively within the control of the two Houses.

On the motion of Henry Winter Davis, of Maryland, in the House of Representatives, Dec. 15, 1863, so much of the President's message as related to the duty of the United States to guarantee a republican form of government to the states in which the recognized governments were overthrown, was referred to a select committee of nine. Upon the question, the yeas were 89, the nays 80. That committee had instructions to report bills necessary and proper for carrying the constitutional guaranty into effect. A bill was reported by the committee, which passed in the House by a strict party vote, except that Mr. Whaley, Republican, of West Virginia, voted in the negative. The yeas were 74, the nays 66. The leading features of the bill were as follows: The President was authorized to appoint a provisional governor for each of the states declared to be in rebellion, with the pay and emoluments of a brigadier-general. He was to be charged with the civil administration until a state government should be recognized. The governors were to direct the United States Marshals to enroll all the white male citizens of the United States resident within the respective states as soon as the insurrection should be suppressed, and whenever a majority of them should take the oath of allegiance. The loyal people thus to be ascertained were authorized to elect delegates to conventions for the purpose of re-establishing the state governments. Qualified voters in the United States Army were allowed to vote in the camps. No person who had held or exercised any civil or military office (except offices merely ministerial, and military offices below the grade of colonel), state or Confederate, under the usurping power, was allowed to vote or be a member of the legislature, or governor. Slavery was to be forever prohibited, and no debt, state or Confederate, created by the usurping power, was to be recognized or paid by the state. The constitutions framed by the conventions of the several states were to be ratified by the people and reported to the President, who would lay them before Congress; and upon their approval by that body, the President would make proclamation recognizing the governments so established, and none others; whereupon the people might proceed to the election of members of Congress, and exercise all other functions of co-equal states. In the meantime the governor would enforce the laws of the Union and of the particular state, as they existed before the rebellion, except as regards slavery.

Mr. Wade, from the Committee on Territories, in the Senate, reported the House bill with two amendments: one fixing the compensation of the provisional governors at $3,000, and the other striking out the word "white" where it occurs in defining the qualifications of voters and office-holders. Mr. Brown, of Missouri, the Senate sitting as in committee of the whole,

offered a substitute which deprived the people of the states in rebellion of the right to elect Senators and Representatives in Congress and Presidential electors, until the insurrection or rebellion should be abandoned or suppressed, and until the return of the inhabitants to their allegiance should be acknowledged by proclamation of the President. This substitute was agreed to — yeas 17, nays 16; Messrs. Brown, Cowan, Doolittle, Grimes, Henderson, Johnson, Lane of Indiana, Trumbull, and Van Winkle — the latter of West Virginia — voting in the affirmative with the Democrats. The Senate then adopted the substitute, by yeas 20, nays 13; Messrs. Harlan, of Iowa, Harris, of New-York, and Pomeroy, of Kansas, voting with the Democrats, together with the other Republicans named above. The bill then passed its final reading — yeas 26, nays 3. The nays were Messrs. Davis and Powell, of Kentucky, and Saulsbury, of Delaware. An amendment proposed by Mr. Sumner, making the Emancipation Proclamation a statute, was rejected — yeas 11, nays 21.

When the bill came back from the Senate, Mr. Garfield, in the House of Representatives, June 13, offered as a joint resolution the proposition of Senator Brown. The resolution was ordered to be engrossed and read a third time, but after a brief colloquy, it was, on motion of Mr. Blaine, laid on the table by a vote of 104 yeas to 33 nays. Mr. Ashley, of Ohio, asked leave, on the 20th of June, to offer a joint resolution of similar purport; but it was objected to. On the 22d of June, 1863, Mr. Dawes, of Massachusetts, in the House, reported from the Committee on Elections, a resolution proposing the appointment of a commission by the President, for the purpose of visiting such of the states lately in rebellion as had taken steps to re-establish their relations of allegiance to the Union. He desired to ascertain whether the loyal people in them were sufficiently strong to maintain the reorganized governments against the insurgents. Another resolution declared that no state thus set up should be acknowledged until evidence was furnished of its ability to sustain itself.

The House non-concurred with the Senate's amendment, and asked for a committee of conference. But the Senate receded from its amendment. It adopted the House bill — yeas 18, nays 14. Messrs. Doolittle, Henderson, Lane of Indiana, Ten Eyck of New Jersey, Trumbull, and Van Winkle voting in the negative, with the Democrats. This bill was in the main conformable to the plans recommended by the President. It differed from them in some respects. These he deemed essential. He was ready to approve the action of any state which should be reconstructed by the people in conformity with the congressional plan; but he could not consent to the overthrow of what had already been done in Arkansas and Louisiana for the restoration of their relations to the Union. In these states constitutions had been re-formed, and officers had been elected under them on the plans recommended by the President. The bill passed by the two houses would have

overthrown these inchoate state governments, inasmuch as it prescribed conditions which had not been complied with. For these reasons the President withheld his signature from it, as stated in his proclamation. Congress adjourned within an hour after its passage. To this fact the President refers as an additional reason for the course he pursued. He thought that time should be given him to consider its important provisions. He declares, however, that he approves, in the main, the principles it contains, and that in conformity with its spirit, he would appoint provisional governors in the rebellious states whenever the people should indicate a wish to return to their allegiance.

The proclamations of President Lincoln with reference to reconstruction, and especially that of July 8, 1864, in which, while announcing his refusal to sign the Reconstruction bill, he proposes to carry out some of its provisions, gave rise to great dissatisfaction among some very earnest Republicans. It was in this connection that Senator Wade, of Ohio, and Representative Henry Winter Davis, of Maryland, published a vigorous protest. It arraigned the conduct of the President. Disregarding the reason assigned by him for withholding his signature from this Reconstruction bill, namely, that it set aside what had already been done in Arkansas and Louisiana by the loyal people, Messrs. Wade and Davis charged him with having perpetrated "a studied outrage upon the legislative authority of the people." They said: "If electors for President be allowed to be chosen in either of those states, a sinister light will be cast on the motives which induced the President to 'hold for naught' the will of Congress, rather than his government in Louisiana and Arkansas." These suspicions of Mr. Lincoln's motives were without foundation, since it was manifestly impracticable for him to authorize the reconstructed states to cast electoral votes and give effect to them, without and against the consent of Congress.

Louisiana, Tennessee, Arkansas, and Virginia had loyal governments set up within their limits during the war; but they were regarded as too feeble to be self-sustaining, even if Congress had reposed entire confidence in the men who had charge of them. When Mr. Sumner was appealed to, about this time, for his influence and vote in favor of the recognition of the improvised state government of Virginia, his reply was that it was too feeble to be self-sustaining, and that he regarded it as a "seven months' child." Only West Virginia, situated beyond the Alleghanies, and never having much liking for slavery, nor affinity with the old state of which it was an outlying territory, succeeded in being recognized by Congress during the existence of the Confederacy. The division of Virginia being accomplished without the consent of the major part of the people, who were in rebellion, must be regarded as among the extra constitutional measures which were inevitable during the period of civil war. It would have been violative of the constitutional rights of the loyal men of the western counties, to make their status

dependent on the will of the majority, who were at open war with the government of the United States; but the alternative to set them up as an independent state was not the only one.

In the House of Representatives, Dec. 20, 1864, Mr. Ashley, of Ohio, reported from the select committee a bill similar in its provisions to Mr. Brown's substitute for the original bill of the preceding session. It declared the slaves free, recognized the reconstructed state governments of Louisiana and Arkansas, and provided for the organization of governments in the other Southern states on the same conditions. It excluded from the right of suffrage and of office-holding, all the higher civil and military officials of the Confederacy. The voters were to be the loyal white male citizens of the United States. Mr. Kelley, of Pennsylvania, moved to amend by adding, "and all other male citizens of the United States who may be able to read the Constitution thereof." This direct proposition to declare a qualified suffrage by act of Congress failed to receive the sanction of that body. Other propositions were made in the form of substitutes not materially differing from the foregoing. Finally, on Feb. 21, 1865, the bill was, on motion of Mr. Mallory, of Kentucky, laid on the table. The next day the subject came up again on the report of a bill from the Judiciary Committee, by Mr. Wilson, of Iowa. But it, too, was laid on the table, fourteen Republicans voting with the Democrats.

A joint resolution was reported from the House Judiciary Committee by Mr. Wilson, Jan. 30, 1865, declaring that the states in rebellion were not entitled to be represented in the Electoral College, and that no electoral votes from them should be received or counted, in the choice of a President and Vice-President. It was adopted without a division; and after undergoing a slight verbal amendment, it was passed by the Senate. The House agreed to the Senate's amendment, and the President gave it his signature, while disclaiming, in a brief message, any right to control the two houses as to the admission of members and the counting of electoral votes. Mr. Trumbull, from the Judiciary Committee, Feb. 18, 1865, reported on the credentials of Charles Smith and R. King Cutter, as Senators from the State of Louisiana, with a joint resolution recognizing the state government adopted at New Orleans in April of the preceding year. Similar applications were made from Virginia, Tennessee, and Arkansas. But nothing came of them, and the matter was postponed until the next session of Congress.

On the subject of reconstruction, the last utterances of Mr. Lincoln, in his last public speech, will be read with interest. April 11, 1865, four days before his death by assassination, he addressed a number of citizens who had called to congratulate him on the fall of Richmond, and the surrender of General Lee with the army of northern Virginia. After the expression of his joy at "the evacuation of Petersburg and Richmond, and the surrender of the principal insurgent army," he proceeds to say: "By these recent

successes, — the re-inauguration of the national authority, — reconstruction, which has had a large share of thought from the first, is pressed much more closely upon our attention. It is fraught with great difficulty. Unlike the case of a war between independent nations, there is no authorized organ for us to treat with. No one man has authority to give up the rebellion for any other man. We simply must begin with and mould from disorganized and discordant elements. Nor is it a small additional embarrassment that we, the loyal people, differ among ourselves as to the mode, manner, and means of reconstruction. As a general rule, I abstain from reading the reports of attacks upon myself, wishing not to be provoked by that to which I cannot properly offer an answer. In spite of this precaution, however, it comes to my knowledge that I am much censured, from some supposed agency in setting up and seeking to sustain the new state government of Louisiana. In this I have done just so much as, and no more than, the public knows."

The new government of Louisiana here referred to by Mr. Lincoln was adopted by a convention held in New Orleans in April, 1864, and the constitution on which it was founded was ratified by twelve thousand white voters. He regarded this government as the first fruit of his Amnesty proclamation, and was desirous of its recognition by Congress. The new constitution contained an article abolishing and forever excluding slavery, and the other provisions required by the proclamation; but it contained no provision for the enfranchisement of the colored race. This was now made a serious ground of objection by many. When the proclamation was issued, public opinion had not advanced far enough to sustain a measure so radical as negro suffrage; but, as the sectional struggle drew to a close, and after the colored men had borne their part in it, the sentiment in favor of their political equality with white men — or, at least, Southern white men — grew stronger in the Republican party. Thus, while the people of the Northern states were not yet quite ready to grant political equality even to the best educated colored men within their own borders, the radical Representatives in Washington were intent on bestowing universal suffrage upon the utterly illiterate negroes of the South.

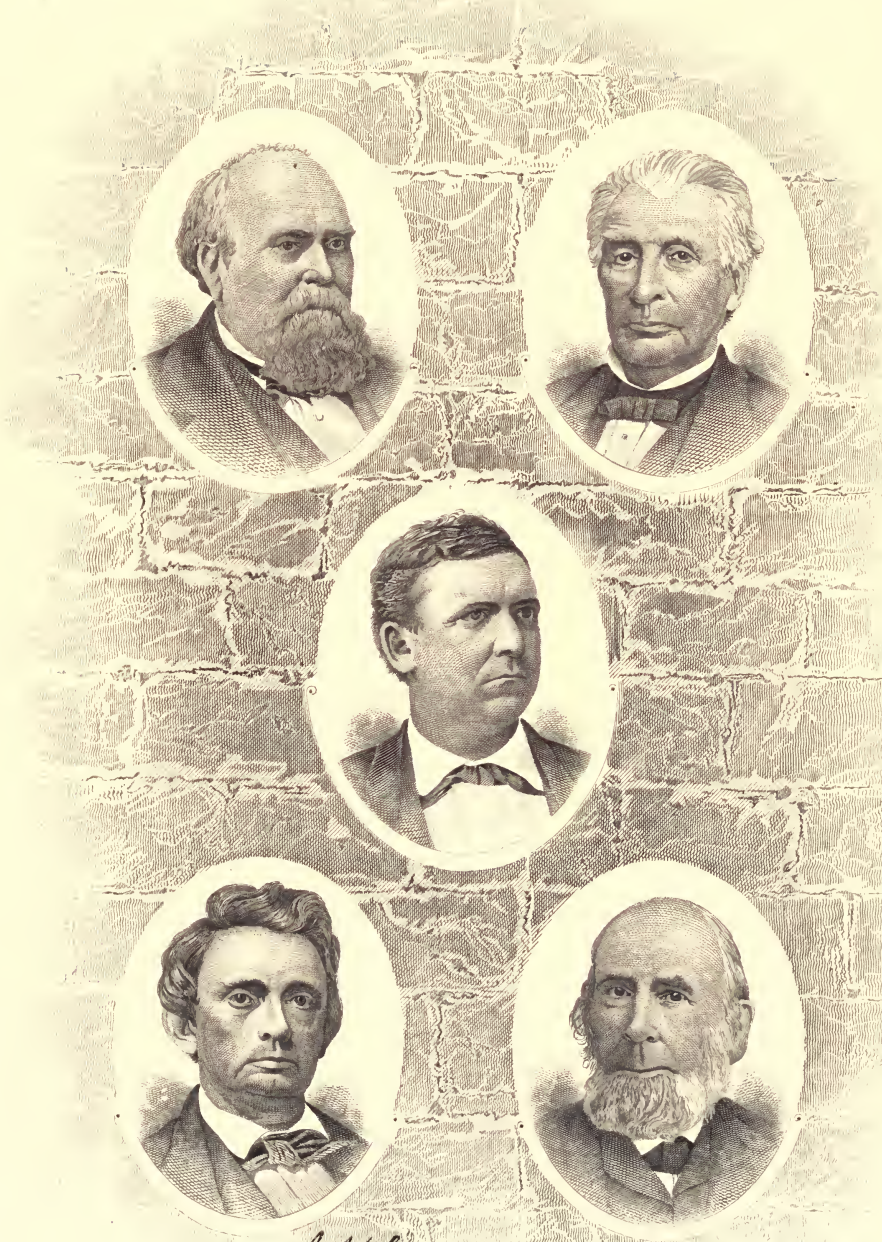
The suggestion of the President in his Amnesty proclamation, that, as a temporary arrangement for the preservation of order and the prevention of anarchy, the Southern legislatures might institute a sort of guardianship over the freedmen, now became a serious ground of complaint against him. But the proposed plan for new governments went not so far as this. On the contrary, it secured immediate and entire freedom to the negroes.

Another question on which Mr. Lincoln fell behind the current of party opinion, and upon which he was arraigned by men of extreme, or "advanced" views, was that in regard to the *status* of the lately insurgent states; — in other words, on the question whether they were in the Union, or out of it. In the speech above quoted from, the President, alluding to

complaints that he had not defined his position on this subject, declared that he had "purposely forborne any public expression upon it." But, answering these complaints, he said: "As appears to me, that question has not been, nor yet is, a practically material one, and any discussion of it, while it thus remains practically immaterial, could have no effect other than the mischievous one of dividing our friends. As yet, whatever it may hereafter become, that question is bad, as the basis of a controversy, and good for nothing at all — a merely pernicious abstraction. We all agree that the seceded states, so-called, are out of their proper practical relation with the Union, and that the sole object of the government, civil and military, in regard to those states, is to again get them into that proper practical relation. I believe it is not only possible, but, in fact, easier to do this without deciding, or even considering, whether these states have ever been out of the Union, than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad. . . . The amount of constituency, so to speak, on which the new Louisiana government rests would be more satisfactory to all, if it contained fifty, thirty, or even twenty thousand, instead of only about twelve thousand, as it really does. It is also unsatisfactory, that the elective franchise is not given to the colored men. I would myself prefer that it were now conferred on the very intelligent, and on those who serve our cause as soldiers. Still, the question is not whether the Louisiana government, as it stands, is quite all that is desirable. The question is: Will it be wiser to take it as it is and help to improve it, or to reject and disperse it? . . . Can Louisiana be brought into proper practical relation with the Union *sooner* by *sustaining*, or by *discarding* her new state government?"

Mr. Lincoln was not in harmony with the radical leaders in regard to reconstruction; and, contrary to their views, or rather schemes, he held that the ratification by three-fourths of all the states, including those then lately in rebellion, was necessary to make valid a constitutional amendment. On this subject, he said, in the same speech: "Again, if we reject Louisiana, we also reject one vote in favor of the proposed amendment to the national Constitution. To meet this proposition it has been argued that no more than three-fourths of those states which have not attempted secession are necessary to ratify the amendment. I do not commit myself against this, further than to say that such a ratification would be questionable, and sure to be persistently questioned; whilst a ratification by three-fourths of all the states would be unquestioned and unquestionable."

On the night of the 14th of April, three days after the delivery of this, his last public speech, its great and good author received the fatal shot from that infamous assassin which instantly deprived him of consciousness and terminated his life on the following morning. His death was a sad event to the people. It was the saddest event in our history — and especially sad in



RECONSTRUCTION GOVERNORS.

BRARY
OF THE
IVERSITY
OF
CALIFORNIA.

its consequences to the Southern people. President Lincoln was not without faults, but his goodness and virtues far overshadowed them. None more than he ever better illustrated the maxim that the good alone are great.

It was almost a peculiarity of Mr. Lincoln, among the great men of history, that all his public and private utterances bear the impress of an honest, conscientious regard for whatever he believed to be right and wise. Though "popular beyond all others of his time," he never sought station or advancement by the sacrifice of the public welfare on the shrine of party or personal ambition. He was singularly free from sectional and partisan passion and animosity. It was a privilege of the writer to see him often while he was in the possession of his great office, and to hear him converse upon public affairs. At no time did Mr. Lincoln utter a harsh or unkind word in regard to political opponents, or toward the insurgent South. When no great public concern engaged his attention, and perhaps as a temporary relief from the cares of state, his conversation was often light and humorous; but Mr. Lincoln could discard frivolity when confronted by a serious demand on his powers. He could always rise up to the occasion. He possessed a clear and vigorous understanding, and a sincere love of truth. His reasoning powers were remarkable. He could, upon occasion, rise to the most sublime flights of eloquence. His little introductory speech at the Gettysburg cemetery dedication will outlive the elaborate and eloquent oration delivered by Mr. Everett on the same day. There were men in Mr. Lincoln's Cabinet eminent for learning and talents; trained statesmen distinguished for the moral courage with which they had encountered the fierce and unbending antagonism of the Southern slave-holding leaders; but in virtue of his native resolution, single-hearted love of truth and right, his clear and strong understanding, cultivated and sharpened by the study and practice of law, Abraham Lincoln was more than the peer of the best of them. In these qualities, in broad humanity and in devotion to country, Abraham Lincoln stands the peer of the purest and greatest men of whom history leaves a record.

CHAPTER XVIII.

PRESIDENT JOHNSON'S POLICY OF RECONSTRUCTION.

WHEREIN IT DIFFERED FROM MR. LINCOLN'S — THE END OF THE BLOCKADE — ALL THE PORTS OPEN — REVENUE AND POSTAL LAWS IN FORCE — THE CIVIL PROVISIONAL GOVERNORS — THE MILITARY AID THEM — THE MILITARY NOT TO OBSTRUCT THE VOTERS — LOYALTY AND WHITE SUFFRAGE THE RULE — INTENSE RADICAL DISSATISFACTION — SENATOR HOWE'S PECULIAR VIEWS OF STATE RIGHTS — A STATE AS A MANUFACTURED PRODUCT! — "IF THE STATES ARE ADMITTED" — THE RADICAL ARGUMENT *AB INCONVENIENTI* — REMARKS OF THE AUTHOR — THE COMPATIBILITY OF STATE AND FEDERAL RIGHTS — INDESTRUCTIBLE STATES AND UNION.

THE reconstruction policy of President Lincoln, as has been shown in the preceding chapter, was to offer amnesty to all participants in the rebellion, excepting only certain classes of persons who had been prominent as leaders. Those to whom the amnesty was extended would be required to renew their allegiance to the United States under the solemnity of an oath which required a pledge to support the acts of Congress and the President's proclamation in regard to slavery. The classes excluded from amnesty, until a special pardon should be granted, were: All civil and diplomatic officers or agents of the Confederate States; all who had left judicial stations, or seats in Congress, or the army or navy of the United States, to take part in the rebellion; all army and navy officers in the service of the Confederacy above the rank of colonel in the army or lieutenant in the navy; and all who had been engaged in treating colored soldiers, or white officers in command of them, otherwise than lawfully, when prisoners of war. Those included in these classes numbered but a few hundred persons in each state. All others who so desired could take the oath, and exercise their political franchise.

President Johnson's policy was not so liberal as that of his predecessor. In his Amnesty proclamation, issued on May 29, 1865, he excepted from its benefits all the classes mentioned in his predecessor's proclamation, and also the following classes: All officers who had resigned or tendered resignations of their commissions in the army or navy of the United States, to evade

duty in resisting rebellion.— All persons who had been, or were then, absentees from the United States for the purpose of aiding the rebellion.— All military and naval officers in the rebel service who were educated by the government in the Military Academy at West Point, or the United States Naval Academy.— All persons who had held the pretended offices of governors of states in insurrection against the United States.— All persons who had left their homes within the jurisdiction and protection of the United States, and passed beyond the Federal military lines into the pretended Confederate States for the purpose of aiding the rebellion.— All persons who had been engaged in the destruction of the commerce of the United States upon the high seas. — All persons who had made raids into the United States from Canada, or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British provinces from the United States. — All persons who at the time might seek to obtain the benefits of the amnesty by taking the oath presented in the proclamation, and were in military, naval, or civil confinement or custody, or under bonds of the civil, military, or naval authorities, or agents of the United States, as prisoners of war, or who were detained for offenses of any kind, either before or after conviction. — All persons who had voluntarily participated in the rebellion, and the estimated value of whose taxable property was over twenty thousand dollars. — And all persons who had taken the oath of amnesty as prescribed in the President's proclamation of Dec. 8, 1863, or an oath of allegiance to the government of the United States since the date of that proclamation, and who did not keep and maintain the same inviolate.

It was provided in President Johnson's proclamation, that special application might be made to the Executive for pardon by any person belonging to the excepted classes; and it was stated therein that such clemency would be liberally extended as might be consistent with the facts of the case, and with the peace and dignity of the United States. All persons who had directly or indirectly participated in the rebellion, save those in the excepted classes, were by this proclamation granted amnesty and pardon, with restoration of all rights of property, except in slaves, or in cases where legal proceedings had been instituted under the confiscation acts of Congress. This amnesty and pardon was granted on the condition that the persons to whom it was offered should take an oath to support, protect, and defend the Constitution of the United States; and to abide by, and faithfully support all laws and proclamations which had been made during the rebellion, with reference to the emancipation of slaves. Pursuant to this proclamation, rules were made by the Secretary of State for administering and recording the amnesty oath prescribed.

On the day President Johnson issued this Amnesty proclamation, May 29, 1865, he also declared his policy of reconstruction in another procla-

mation, in which he announced the appointment of William W. Holden as provisional governor of North Carolina. In the latter document he stated the constitutional grounds on which he acted, as follows: "The fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every state in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas, the President of the United States is by the Constitution made commander-in-chief of the army and navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States and to take care that the laws be faithfully executed; and whereas, the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of North Carolina of civil government; and whereas, it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina, in securing them in the enjoyment of a republican form of government: Now, therefore, . . . I, Andrew Johnson, President of the United States, and Commander-in-chief of the army and navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina."

Mr. Holden was to prescribe, at the earliest period practicable, the necessary rules and regulations for calling a convention. The delegates were to be chosen by that portion of the people of the state who were loyal to the United States. The convention was to meet for the purpose of altering or amending the state constitution. The provisional governor was authorized to exercise all the powers necessary and proper to enable the loyal people to restore the state to its constitutional relations with the government. A proviso in the proclamation declared all persons of the fourteen excepted classes to be ineligible to vote for delegates, or to be delegates; and another required voters to take the prescribed oath of allegiance. With these limitations, the convention had the power to define the qualifications of electors and office-holders under the state government. The military commander of the department, and all officers and persons in the military and naval service were directed to aid the governor, and not to hinder or discourage the people in their efforts to organize the state government. And the heads of departments were severally directed to appoint all necessary Federal officers, and to put the laws of the United States in force within the limits of the state.

June 13th, of the same year, William L. Sharkey was appointed provisional governor of Mississippi, by a proclamation conferring like powers. June 17th, James Johnson was appointed provisional governor of Georgia,

and Andrew J. Hamilton, provisional governor of Texas. June 21st, Lewis E. Parsons was appointed provisional governor of Alabama. June 30th, Benjamin F. Perry was appointed provisional governor of South Carolina, and July 13th, William Marvin was appointed provisional governor of Florida. Each of these temporary governors was clothed with like powers to those conferred on the governor of North Carolina. The reconstructed loyal government of Virginia, with Francis H. Pierpont as governor, was recognized by Mr. Johnson. In Tennessee a similar reconstruction had taken place. William G. Brownlow had been elected governor of that state on March 4, 1865. The loyal white people of Arkansas had organized a new state government, which President Johnson recognized in a telegram to Governor Murphy, dated Oct. 30, 1865. The reconstructed state government of Louisiana, with J. M. Wells as governor, was in like manner recognized by President Johnson. In the state governments which were organized under President Johnson's proclamation — like the four last mentioned, which were organized under Mr. Lincoln's proclamation of Dec. 8, 1863 — the suffrage was confined to the loyal white men; the test of loyalty being the oath of allegiance to the Constitution of the United States.

On May 22, 1865, President Johnson issued a proclamation declaring all ports which had previously been subjected to blockade — except the ports of Galveston, La Salle, Brazos de Santiago, and Brownsville, in the State of Texas — open to foreign commerce, from and after the first day of July following. On the 23d of June, 1865, another proclamation opened the excepted ports to foreign commerce. By the proclamation of May 22, all restrictions of trade in the states east of the Mississippi River were removed, except in regard to articles contraband of war, property purchased in the territory of an enemy, and the levy of twenty-five per cent. on purchases of cotton. This proclamation directed, further, that all provisions of the revenue laws were to be carried out in these states by the proper officers. These proclamations were followed by others providing for the operation of the customs laws, internal revenue laws, and postal laws, and for the opening of the United States courts throughout all the Southern States.

These independent measures of the Executive for reconstruction were far from giving satisfaction to the Republican party. Within a few days after the meeting of Congress, in December, 1865, Mr. Stevens, of Pennsylvania, asked leave to introduce a joint resolution which provided that a committee of fifteen members should be appointed — nine of whom were to be members of the House and six to be members of the Senate — for the purpose of inquiring into the condition of the states which had formed the so-called Confederate States of America. This committee was to report whether these states or any of them were entitled to be represented in either house of Congress. Leave was given to report at any time, by bill or otherwise, and until such report should be made and finally acted upon by Congress, no member was

to be received into either house from any of those states. All papers relating to this representation in Congress were to be referred to this committee without debate. This resolution was adopted in the House by a vote of—yeas 133, nays 36.

A caucus of Republican Senators was held with reference to this joint resolution, in which certain amendments were agreed to. The resolution was taken up in the Senate on December 12, and on motion of Mr. Anthony, the enacting clause was amended so as to make it a concurrent, instead of a joint resolution. The Senator also moved to strike out the following clauses: "Until such report shall have been made and finally acted upon by Congress, no member shall be received into either house from any of the said so-called Confederate States; and all papers relating to the representation of the said states shall be referred to the said committee without debate." The resolution as amended was then adopted. On the following day, on motion of Mr. Stevens, of Pennsylvania, the House concurred in the amendments of the Senate, and adopted the resolution. The two houses then severally agreed to refer all papers relating to representation of the seceded states to the concurrent committee.

Senator Howe introduced a joint resolution on Jan. 10, 1866, in regard to the temporary government of the states lately in rebellion. The preamble recited the facts of the secession of the states, and their war upon the government of the United States, "whereby," according to its words, "the political functions formerly granted to those people have been suspended." The resolution went on to say that, "whereas, such functions cannot yet be restored to those people with safety to themselves or to the nation; and whereas, military tribunals are not suited to the exercise of civil authority; therefore, Be it resolved by the Senate and House of Representatives in Congress assembled, that local governments ought to be provisionally organized for the people in each of the districts named in the preamble hereto."

In his elaborate speech upon this resolution, Senator Howe quoted the sixth article of the Constitution, second clause, which declares that, "This Constitution and the laws of the United States which shall be made in pursuance thereto, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." He insisted that the framers of the Constitution meant literally what that article declares, and not that the constitution and laws of the states are the supreme law of the land. "The war," said he, "was designed to demonstrate that the will of each state was supreme, and that the United States must defer to it." Before the Constitution was adopted, such was the case precisely. The several states were sovereign, and for that very reason the union formed between them was worthless. The Congress of the old Confederation might

enact laws, but, as their laws were addressed to the states and the states were sovereign, the states would obey or not as they pleased. Showing from this defect the reasons for the Union, Mr. Howe set forth his views of national sovereignty as follows: "The national plan was adopted. Thirteen weak and thriftless sovereignties were welded into one great and prosperous republic. It was not the purpose of the convention to destroy the states, but to change their character, — to strip them of sovereignty and leave them no manner of authority to impede the execution of the national will. There can," said he, "be but little danger that the several states will be despoiled of their rights by a government constituted like that of the United States."

Continuing his argument on which he based the radical doctrine of reconstruction, Mr. Howe said: "To my mind the states have another security against the encroachments of the national government, even more reliable than this. It is in the fact that the people who compose the several states *make* the government of the United States. It is not much to be apprehended that the creature will devour the creator. But the states rights party resembles a congregation of dervishes dancing before an idol their own hands have created, and frantically imploring it not to destroy them. It is not the business of the national government to sway states. That was the business of the old Confederation. It is the business of this government to control people, and I estimate its strength, as I estimate the strength of all other powers, by the extent of its territory, by the number, the wealth, the intelligence, and the loyalty of its people. . . . Has any one yet attempted to explain what principle that is which renders a state indestructible? Does any one comprehend it? For myself I do not. A state is a manufacture as much as a wagon is. It is not, indeed, made in the same way nor at the same shops; but it is, nevertheless, made, and made by mortals. My friend from Nevada has just helped to make one. A state can be made only by those who are permitted by the nation to make one, by those who are willing to make it. 'But once made,' we are told, 'a state can never die.' 'Once a state always a state,' they shout. And when, a few years since, it was hinted that the rebellious states had committed suicide, politicians laughed the suggestion to scorn. Galileo, when condemned to renounce the heresy of the earth's motion, is said to have made his abjuration with all the formality commonly attending such proceedings. Clad in sackcloth and kneeling, he swore upon the Gospels never again to teach the earth's motion, or the sun's stability. Then, rising from the ground, he exclaimed, 'It does move, after all.' And so I, rising as well as I can under this load of derision, cannot refrain from assuring the Senate that the states can commit suicide and can die. History is but little more than a grave-yard in which one reads the epitaphs upon buried states.

"It is poetical license, and not political science, which talks of the immortality of states. Have the people of Nevada made an organization which

they cannot unmake? If they refuse hereafter to choose governors, and legislators, and judges, and municipal officers, will the state survive the mere neglect? On the contrary, would it not be the imperative duty of Congress, in such an event, to resume the prerogative you have just granted to that people, and provide a government to save the people from anarchy? Do Senators comprehend what consequences result necessarily from restoring the functions of those states? It will add fifty-eight members to the House of Representatives, more than one-fourth of its present number. It will add twenty-two members to the Senate, nearly one-half its present number. The Constitution designed the Legislature to be independent of the Executive. But what independence has that Legislature into which the Executive may at his pleasure pour so many votes?"

Truly this is radical, especially the closing argument, *ab inconvenienti*. What would be said to-day, if such an address were to be made in the Senate on this view of the Constitution? Surely it was nothing short of the insanity of extreme partisanship. Would any one to-day say that the congressional will is the only limitation upon national authority? Is there no constitutional restraint upon that authority? The Democratic doctrine is, and ever has been, that the states and the Union are each sovereign in their respective spheres; neither possessing unlimited sovereignty; both having their limited sovereignty defined by the Constitution, so far as the Federal Government is concerned. Aside from this limitation on state sovereignty, there is none, except in so far as it may, in the respective states, be defined in their organic laws. The people of each state, subject to the powers they granted in the Federal Constitution, enlarge or restrain the powers of their state government to any extent they may deem desirable for their own welfare. There can be no mortality of a state while the Union exists — while there is a vital nationality under the Constitution. Nothing short of successful revolution can destroy the autonomy of the states of the Union. The Union itself must first be destroyed. That never has been destroyed. It was the constant assertion of President Lincoln and Secretary Seward, — the two greatest men in the Republican party, — throughout the whole period of the Civil War, that the Union remained undissevered. Secretary Seward never departed from the doctrine of the indestructibility of the states. "We are not only a nation, but we are states also," said he in his first letter of instruction to Mr. Adams, on the appointment of the latter as our minister to England. This was on the 10th of April, 1861. Mr. Seward set forth the President's views in that letter, so that Mr. Adams would clearly understand the policy which the Administration proposed to pursue. All our ministers abroad were to conform their action to that policy. In the first place, there was to be no coercion of any state. "The President," said Mr. Seward, "would not be disposed to reject a cardinal dogma of theirs [the secession leaders], namely, that the Federal Government could not reduce the seceding states to

obedience by conquest, even, although he were disposed to question that proposition. But, in fact, the President willingly accepts it as true." The doctrine of Lincoln and Seward was not subjugation nor conquest, but the assertion and restoration of the Federal authority in every seceding state.

There might be a national agreement without states; but there could be no Union without states to unite. All the states must have existence. It was the secessionist only, who asserted that "the Union is a purely voluntary connection, founded on the revocable assent of the several states." Mr. Seward and Mr. Lincoln said to Mr. Adams, in regard to the seceding states: "You will . . . all the while remember that these states are now, as they always heretofore have been, and notwithstanding their temporary self-delusion they must always continue to be, equal and honored members of this Federal Union; and that their citizens, throughout all political misunderstandings and alienations, still are, and always must be, our kindred and countrymen." There can be no such thing as disloyalty to the Union and at the same time loyalty to a state. The converse is also true. "All public officers, as well as all citizens," said Mr. Seward, "owe not only allegiance to the Union, but allegiance also to the states in which they reside." There can be no conflict between the state and Federal allegiance of the citizen. The two allegiances constitute but one whole fealty and faith. This is the Democratic doctrine also. That party never faltered in the assertion or in the acceptance of all its logical conclusions. But how long did the Republican party adhere to it? Mr. Lincoln, in the last days of his life-time, and Mr. Seward after him, were sadly in the minority in their states rights views.

The states must ever exist. Not one could suicide or die, without bringing mortality upon all. Such mortality can come solely, either by overpowering force, or a voluntary abandonment by all the states of the existing Federal compact. — "No new state shall be formed or erected within the jurisdiction of any other state," so say the people of the United States in their Constitution. How can this decree be repealed? Only by revolution. True, it is possible to suppose a voluntary abandonment by the people of their present form of government. But would not that be revolution? This possibility is foreign to any argument that admits the excellence of our present form of government. Mr. Howe was arguing from the Constitution, hence his ridicule of states rights could only reflect upon his own argument. Speaking from the Constitution, the question may be asked: Must Massachusetts always be a state of the Union? She must. No new state can be formed or erected within her jurisdiction. She must always be and be known as "Massachusetts." We will never be without that commonwealth. She is one of the old states. It is "new states" that can come into the Union, — not old states, for they cannot get out of the Union.

CHAPTER XIX.

THE DOCTRINE OF STATE VITALITY.

A TEST OF POSITIONS IN DEBATE — SENATOR JOHNSON TRIUMPHANTLY ANSWERS SENATOR HOWE — THE SENATOR IN THE ARENA WITH THE LOGICAL RAPIER — THE SOCRATIC METHOD OF JOHNSON — HOWE'S COOL PARRIES AND JOHNSON'S KEENER THRUSTS — THE SCENE IN THE SENATE COMPARED WITH THE WARREN HASTINGS TRIAL — THE IMMORTALITY OF THE STATES — SECESSION ORDINANCES VOID — NOT WAR, BUT INSURRECTION — THE FEELING SOUTH — WAS PROBATION NECESSARY? — NORTHERN APPREHENSIONS — WAR RESULTS SAFE — NEGRO ENFRANCHISEMENT — THE BALLOT INEVITABLE — PARTISANSHIP PILLORIED — THE CONSTITUTION AS THE PALLADIUM OF THE NORTH AND SOUTH.

THE author has, in the preceding chapters, set forth the views, respectively, of the two great political parties in regard to the policy of the war for the Union. In the Second Decade of this volume, the issues growing out of that war in regard to the relations of the victorious to the vanquished states, constitute the great theme for debate and congressional settlement. For the purpose of enabling the reader to get a clear understanding of the positions taken by the same parties in regard to those issues, the author has selected one debate in the Senate between distinguished representatives of the two parties. A few extracts from it, and a few comments on the arguments, will be sufficient for that purpose. The leading contestants in this debate, after which there were so many similitudes, were two Senators of very different types. The Senator from Wisconsin, Timothy O. Howe, was a man of the New England style. He was born in Livermore, Maine, and was an admirable judge — less advocate than judge. He was slow in speech and almost melancholy in manner. He seemed to be fatigued at the end of every sentence. He was of the same class of the *genus homo* as William H. Seward and Simon Cameron. He was tall and thin, pallid as death, and immobile in his restful and unimpassioned habitudes. How unlike the sturdy and fervid Marylander, Reverdy Johnson, who so triumphantly replied to his dialectics. The willowy, dilatory mode of the one was in contrast with the sturdy robustness of the

other. The voice of Senator Howe was not resonant. He spoke as if he were exhausted. Reverdy Johnson's elocution, albeit trained in the solemn hush and reclusiveness of the Supreme Court, was loud, orotund, and defiant. What a venerable English form the latter had; what a peculiar eye, which in after years became sightless; what an expressive mouth and form. His portrait in the Attorney-General's office is quite unlike the original, except in a certain artistic repose. The writer remembers these Senators with a social pleasure, derived from a knowledge of their remarkable and genial qualities. Other men have been more praised than Timothy O. Howe, — the Postmaster-General under President Hayes; but other men never deserved more encomium than he from his side in this great argument. But when the Maryland Senator brought his interrogative skill into the arena, his rapier pierced the heart of the contention at every thrust. The parrying of the Wisconsin Senator was adroit, but the cunning of fence and the courage of conviction of the Marylander were resistless.

To complete the surroundings of such a momentous contest, one would wish for the picturesque pencil of Macaulay. There is no equal for graphic style of that scene in the High Court of Parliament, when the peers sat in the great hall of William Rufus "to try an Englishman for tyranny over the holy city of Benares, and over the ladies of the princely house of Oude!" True, no such garniture of traditions had gathered about the new Senate Chamber. There was no military or civic pomp; no avenues lined with grenadiers; no peers robed in velvet and ermine; no judges in the vestments of state, or earl-marshals and princely personages, resplendent with golden cordons and knightly orders. Our freshly-decorated Senate Chamber was not hung with scarlet. Its colored lights from the ceiling shed a garish, not a dim religious radiance upon the prevailing drab of the walls. From the galleries, in eager interest, leaned forward forms of female grace, companies of soldiers in undress uniforms, and citizens who served in the departments. Here and there, mingling in the crowded audience, were seen colored men, — their heads crisp with Numidian curl, "but dazed with the recondite issue and scene!" Fox and Sheridan,— the British Demosthenes and Hyperides; Burke and Windham; and supreme above all, Hastings himself, give human interest to the picture which glows in Macaulay's page. But here in our Senate House, the fate, the condition, the contumacy, and the so-called crime of many republics is in grand inquest. The writer clearly recalls the scene of that eleventh of January, one and twenty years ago. Members of the House of Representatives, since eminent at home and abroad, flock to the Senate to hear Senator Johnson reply to the superb speech made the day before by the Wisconsin Senator; and of which the essence of its argument has been given in the preceding chapter. The prayer is offered; the journal is read; petitions, reports, bills, and a dull debate about assessors are listened to impatiently. Some words from Senator

Anthony are heard, and remarks from Sumner, Fessenden, Trumbull, Doolittle, Grimes, and others about the Paris Exposition; and then a vote is had on the latter. Now, a sharp rap is heard from the president *pro tempore*, Lafayette Foster. He calls up the great problem of the provisional governments and of the vitality of the states. The reporters sharpen their pencils, and the Senators settle themselves in their chairs. They are all intent to catch each syllable. Upon the left of the chair sit the few Democrats remaining in this august body. Observe the keen, intellectual, close-shaven face of Buckalew, of Pennsylvania; the suave expression which marks the handsome countenance of Hendricks, of Indiana; the unmistakable pioneer and reckless air of Nesmith, of Oregon; the small but defiant figure of Garrett Davis, of Kentucky; the debonair Stockton, of New Jersey; and the solid solemnity of Guthrie, of Kentucky. These are about all of the regulars of the old party present. They constitute about one-tenth of the seated Senators. But what new Senators are these, now anxiously waiting to hear the accents of the grand Marylander? Doolittle, Gratz Brown, Dixon, Cowan, and Trumbull, all rare and accomplished in debate, soon to become giants of those fierce and fervent days of discussion. They are ready to accept the new situation, as champions of Andrew Johnson's administration, for the unimpaired energy of statehood.

What an array upon the other side! Chandler, Lot Morrill, Poland, Nye, Pomeroy, Sprague, Williams, Yates, Ramsay, Henderson, Wilson, Fessenden, and Sumner, like Jove "above them all, by his great looks, and power imperial." Others there are, who are inconsiderable as dust, in the balances of debate. The Lanes of Indiana and Kansas, — genii of that day of weird Western politics, — McDougall, of California, and Saulsbury, of Delaware, twin relics of that hour of excitement, — these are absent. Rough Ben Wade and courtly John Sherman soon come in, and Ohio, through them, gives heed to the utterances of the logical and leading member of the reconstruction committee.

There are many debates on these reconstruction questions. Many might be chosen to bring out the salient points, but they would not answer the author's purpose as well as this one. They cover thousands of pages of the legislative records. They evince patriotism and partisanship, loyalty and learning, enthusiasm and eloquence. Indeed, never were contests between embattled armies more thrilling than these debates in the legislative arena. Throughout, whether in the House or the Senate, two lines of argument, determined by opposite views of constitutional construction, are faithfully pursued, — one line by the orators of one party, the other by the orators of the other party. The Democrats are always upholding the Constitution as a grant of limited powers, with indestructible, reserved rights remaining in the states and people of the Union. The Republicans are holding, in effect, the same doctrine for a time of peace; but another one for

a time of insurrection. In the latter condition, the Republicans would suspend the constitutional provisions, and make them inoperative at the will of the National Legislature. Both parties are undoubtedly acting with unfaltering loyalty to the Union; and neither is, at any time, entirely free from the dangerous spirit of partisanship. Naturally this spirit most exhibits itself in the dominant party, when the war has ceased with the defeat of secession. Power is never willingly surrendered.

The debate between Senators Howe and Johnson was conducted entirely as upon a constitutional question. Mr. Johnson's reply was a masterly elucidation. It set forth the Democratic doctrine respecting the constitutional status of the states that had attempted to secede from the Union. He commenced by defining the Republican position, as follows:

"I understand the honorable member from Wisconsin to say that the effect of the hostilities which we have been carrying on to suppress the insurrection in certain of the states where it has prevailed for some four years, is to extinguish altogether the states as such, and to reduce the territory of which those states were composed at the time when the insurrection broke out to the condition of territories, and to subject the people of those states to be governed under that clause of the Constitution which gives to Congress the power to govern the territories, or upon the ground that they may have been conquered by the United States, and that the power to govern is to be implied from the right of conquest when the conquest is completed."

To this Mr. Howe replied: "If the honorable Senator is simply stating what he understands to be the effect of my argument, I cannot object to it; but if he understood me to say that the purpose for which we prosecuted this war was to extinguish those states, he misunderstood me."

Mr. JOHNSON: "I have not so stated. I did not understand the honorable member as saying that the purpose for which the war was prosecuted, but that the result of the prosecution of the war, was to reduce those states to the condition of territories. It is to that proposition —"

Mr. HOWE: "If the honorable Senator will pardon me for one moment, my position was not that the result of the prosecution of the war was to reduce the states to territories, but that they assumed the legal character of territories by reason of their own acts, independent of the war. They destroyed the state organizations, not we."

Mr. JOHNSON: "I so understood you."

Mr. HOWE: "And the effect of the war was simply to reduce them to obedience to the United States, to be governed by such instrumentalities as the Constitution has provided."

Mr. JOHNSON: "I am sure I have not misapprehended the Senator. It would have been very difficult for any one to misapprehend him, for he was exceedingly lucid in everything he said. It may be possible that I may fail to explain what I understand to have been his propositions, and if I should

do so in any part of the remarks I am about to make, I hope the honorable Senator will set me right."

Here Mr. Johnson entered into the discussion of the question as to the effect of the war itself. First.—Did it reduce the states to the condition of territories? Second.—If this was not its effect, was that effect produced by any conduct upon the part of the citizens residing within the limits of those states?—As shown above, Mr. Howe had put himself on the affirmative side of the latter question.—"No member of the Senate," said Mr. Johnson, "is now to learn that there is no power in the Constitution of the United States given to Congress, or any other department of the government, to declare or carry on a war against any state. The power to declare war, devolved upon Congress by the eighth section of the first article, is a power evidently looking to a war between the United States and a foreign nation." He held that the power to protect the United States, or a state, by military force against insurrection was a different power from that given to Congress for protection against foreign invasion. "If," said he, "there could be any doubt, looking to the character of the government, that such is the limitation of the war power, that doubt would be removed by the fact that there is in another part of the same section a provision which looks to the carrying on of such a contest as the one in which we have just been engaged." He denied that there had been any exercise of the war power of the government in quelling the late insurrection. The power which had been exercised was granted in the same section in express terms, namely, in that which provided for calling forth the militia to execute the laws of the United States and suppress insurrection. The latter he regarded as a police power. No conquest, in the proper sense of the term, could be achieved under this police power. It could extinguish no existing institution in any state, and certainly it was not intended to destroy any state in which it might be exercised. He enforced this view by a reference to the proceedings of the constitutional convention. It had been suggested in those proceedings that Congress should have the authority to make war against a state. This proposition was repudiated as fatal to the government by two leaders of that body of mighty men, Hamilton and Madison. They both denied that, as far as the convention had proceeded at that time, any such authority was given to Congress, and they protested against the propriety of conferring any such power. It was never conferred.

The question of the national war powers had been before the Supreme Court of the United States in the recent Prize cases. The opinion in these had been very much relied upon as maintaining in part the doctrine for which the Republican party contended. Mr. Justice Grier, in delivering the opinion of the Court in these cases, had used this language:

"By the Constitution, Congress alone has the power to declare a national or foreign war. It cannot declare war against a state, or any number of

states, by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed. He is commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He has no power to initiate or declare war either against a foreign nation or a domestic state. But by the acts of Congress of Feb. 28, 1795, and of March 3, 1807, he is authorized to call out the militia and use the military and naval forces of the United States, in case of invasion by foreign nations, and to suppress insurrection against the government of a state, or of the United States." The same doctrine was held by the minority in the dissenting opinion delivered by Mr. Justice Nelson, who said: "The acts of 1795 and 1807 did not, and could not, under the Constitution, confer on the President the power of declaring war against a state of this Union."

This language gave full support to Mr. Johnson's position. He logically drew the conclusion that when the insurrection had been suppressed by the exercise of the police power, there could be no justification for its further exercise; for, said he, "To carry on a war against a state in which there is no insurrection is a simple absurdity." It must be plain to every reader of the Constitution that Mr. Johnson's position was correct. That instrument provides for "war" and "insurrection" as two distinct calamities to which the people of the United States would be liable. War is "declared" between independent nations under the sanction of their sovereign power. It is of two sorts; offensive, and defensive. Insurrection, on the other hand, is a rebellious rising against the established civil authority of a nation or state; an active opposition to the execution of its laws by armed force. The suppression of an insurrection is for the purpose of preserving the state, not of destroying it.

Having demonstrated that there was no constitutional authority for the national government to carry on a war against the states, and no authority to exercise the power to suppress insurrection for the purpose of destroying any state, Mr. Johnson addressed himself to the second part of the question under discussion, namely, — that in which the Republicans claimed that because of the action of the people the insurrectionary states had fallen into the condition of territories, and were therefore subject to be governed by rules to be prescribed by Congress. Here Mr. Johnson showered the Republicans with interrogative argument. Was the sovereignty of these states at an end? If so, on what ground? Was it because the people had passed ordinances of secession and attempted to enforce them against the national authority? Was it because we had acquired any right of conquest in suppressing that attempt. Were these ordinances valid? Had they any legal operation whatever? Did they take any of these states out of the Union? Did they dissolve the connection to any extent, which existed as between

those states and the Union, by force of the Constitution? If they did, must it not be admitted that the ordinances were valid? Were the states out, as the Senator from Wisconsin asserted, because their people determined that they should go out? Were they out, because they declared by ordinances that they were now out? Were they now out because the people were still alleged to be disloyal, although the insurrection had been, in fact, suppressed and the authority of the government reinstated? If the ordinances were void, continued Mr. Johnson, they could not take the states out. If the citizens had not a right to be disloyal, their disloyalty could not put them out. If, notwithstanding the ordinances, the states were as much in the Union on the day after they were passed as on the day before, and if, after the ordinances were adopted and hostilities were being carried on, their citizens had no more right to be disloyal than they had before hostilities commenced, then they were just as much in the Union after the insurrection as they were before it. No Senator would admit that an ordinance of secession had any validity whatever. If it was valid in any state, then the North was the aggressor, and the suppression of secession was, on its part, a great crime. Admit the validity of any ordinance of secession, and it follows that the Unionists were traitors to the obligations of the Constitution, and not those who, exercising the right of secession, had attempted to separate themselves from the Union.

What answer could be made to this argumentation? None. Even in this condensed form Mr. Johnson's argument must appear unanswerable to the unprejudiced reader. Every Senator held that the Constitution not only confers no right of separation, but it imposes an obligation upon every citizen, in every state, to maintain the Union, no matter what may be his conduct or the conduct of his fellow-citizens. Every Senator held that every citizen in the Southern States was at all times bound by this obligation. It must follow, therefore, that the ordinances of secession were absolutely void. They had no more effect to sever the connection of those states, and the people of those states, with the government of the Union, than if they had been passed by a foreign nation. Mr. Johnson conclusively proved that while the citizen who takes part in insurrection may fall under the ban of the law, no acts of citizens who take part in an unsuccessful insurrection can overthow the previous order of the government or erase one word from its Constitution. With a view to show how naturally the Republicans themselves had, in their war legislation, acted on the principles for which he thus contended, Mr. Johnson called attention to vertain laws which had been passed with the unanimous concurrence of both branches of Congress since hostility had been flagrant between the sections, in which the seceded states were recognized as still remaining in the Union, subject to constitutional legislation. On the 5th of August, 1861, there was passed the act entitled "An Act to provide increased revenue from imports, to pay interest on the public debt,

and for other purposes." The eighth section imposed a direct tax of twenty million dollars, and apportioned it among the several states, as provided in the Constitution. To all the seceded states were apportioned their quotas in like proportion with the others. In consequence of the impracticability of collecting this direct tax in the insurrectionary states, a special provision was made by the act of June 7th, following, for the collection of the quotas of those states. They were directed to be apportioned and charged in each state and territory, or part thereof, wherein the civil authority was then obstructed, upon all the lands and lots of ground situated therein respectively. Going back of these acts, Mr. Johnson cited the proclamation of President Lincoln which declared that the citizens in certain states were in rebellion, that the ports within the limits of certain states would be closed, and that the laws were obstructed by persons claiming to act under the authority of those states. He quoted, also, the act of July 13, 1861, in which it is said that when the insurgents claimed to act under the authority of any state or states, and such claim was not disclaimed or repudiated by the persons exercising the functions of government in such state or states, it would be lawful for the President, by proclamation, to declare that the inhabitants of any such state are "in a state of insurrection against the United States"; and that thereupon all commercial intercourse, by and between the same and the citizens of the other states of the United States, should cease and be unlawful. Mr. Johnson cited the orders issued by the Supreme Court in 1862 and in 1865, by which the justices were assigned to the several judicial circuits, including the fourth and fifth circuits, composed of the states which claimed to have seceded. If the seceded states were territories, then the Supreme Court could have no circuit in them, for states only constitute its circuits. Here, while insurrection was flagrant in the South, was a direct recognition by every branch of the Federal Government, legislative, executive and judicial, that the constitutional union of the states still remained. The Republicans had been left no constitutional ground to stand upon by Mr. Johnson when he concluded his reply. The argument *ab inconvenienti* of Senator Howe against admitting the South to its rightful constitutional representation in Congress was all that was left to them. Who will not now regret that partisanship should have fallen so low as to have resorted to such a desperate argument? What patriot will not blush that it was successful, even in that ordeal of our institutions?

The author by no means intends to ignore the real difficulty of the peculiar status of the Southern States at the time of this debate. While holding that at the very moment that these states were unquestionably entitled, under the Constitution of the United States, to resume their Federal relations, he admits that much of the difficulty must be attributed to the Southern people themselves. Human nature, with its passions and prejudices, is stronger than any law, written or unwritten. We had just emerged from an inter-

necine war. It had stained every hearth-stone in the land with brothers' blood. That the animosities engendered by this struggle did not soon disappear, is no more than could reasonably be expected. There was a natural aversion in the North to any immediate settlement of Federal relations that would admit into the direction of national affairs men who had exhausted the whole power of the South in that long and desperate contest. It was impracticable to indict or punish, by process of law, a whole people for engaging in that struggle. Whether the United States Government was or was not estopped from such a mode of punishment by having conducted the war as against a belligerent power, it was impossible, under our judicial system, to bring the offenders to trial in any judicial district where the juries themselves were not equally amenable before the law. The Southern people did not feel that they had committed any crime. They regarded their resistance to the Federal authority as a rightful act. They held it to be patriotism and self-defense. So feeling, and if allowed to exercise their constitutional right to be represented in the national Congress the moment their armed resistance had ceased, how would their Senators and Representatives have acted? Would their course have tended to reconcile the lately warring sections? Would it have had the effect of defeating the results of the war? These questions suggest the gravity of the situation at that time. That gravity consisted more in the fact that the people of the South, almost in mass, still believed that their cause was just. It is now, and was then, the belief of the writer that our government was pledged, in its conduct of the war, to that course which would, on the moment the hostilities terminated, take immediate steps for the complete extension of the Federal relations to all parts of the Union, under conditions of generous and not grudging amnesty. It was these relations that were destroyed, and not the existence of sovereign states. It was these relations which were involved in the insurrection. The Crittenden resolutions, adopted in the House of Representatives on July 22, 1861, with but two dissenting votes, and afterwards in the Senate by a vote of thirty to five, pledged the national faith to this course in these words: "That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights and established institutions of those states, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several states unimpaired; that as soon as these objects are accomplished the war ought to cease."

Mr. Howe had voted for this resolution. Did it admit the doctrine of valid secession or state *felo-de-se?* The object "to defend and maintain the supremacy of the Constitution and all laws in pursuance thereof, and to preserve the Union," could not be effected while the dominant political party of

the country was refusing to recognize as unimpaired the dignity, equality, and rights of the late insurrectionary states.

The Democratic party was loyal to this resolution throughout the war. The hand-writing of Mr. Crittenden in that historic document is as familiar to the eye of the writer as if it were the face of an old friend. He was elected upon its principles in 1862, in the midst of the war and by a Republican district. Its principles were understood to be Mr. Lincoln's cautious shibboleth. It was because of its essential loyalty to the Union and Constitution that the Democratic party was anxious at all times during the war to propose or accept terms of compromise looking to the restoration of the Union. But it never did nor would consent to a disruption of the Union. The Democratic party did not support the war for the purpose of destroying slavery, nor with a view to obtain and retain control of the government. It would at any time have embraced the "Union as it was," and let slavery disappear, as it must necessarily have done, in the peaceful mode by which the advance of liberal ideas would have brought about emancipation.

Many good men, in and out of Congress, feared to trust the South with its rightful constitutional power when the Civil War terminated. It was feared that its power would be exercised to defeat, as far as possible, the results of the war. It might bring ruin to our financial system. It might lead to the repudiation of the national debts and the just claims of those who had given up their blood and treasure for the maintenance of the Union. This apprehension gave great strength to the Republican party during the protracted period of reconstruction. It was easy for the selfishness of partisanship to exaggerate the dangers that would ensue if a period of probation, or purgation, was not passed through by those who had "sought to destroy the Union." But there were men of undoubted loyalty who had no fear of any evil results from the immediate restoration of Federal relations. Suppose the South had been at once admitted to representation in Congress? Would that section have been able to destroy any legitimate object for which the national government had contended in the struggle? Certainly not. In such case, if the South had not accepted amnesty as freely and in as good faith as it was offered by the President of the United States, she would soon have found herself in a minority so small as to leave her nothing else to do than to honestly accept the results of the war. There would, if the South remained sullen, soon be, as practically there was during the early part of the war, but one party in the North.

Extreme partisanship always defeats itself. It ruled during the period of reconstruction following the close of armed hostilities. Had not the dominant party an overweening, and many of them a malicious desire to perpetuate their power, no such chaos would have come to mark that period. It is this partisanship that deserves to be pilloried by patriotic rebuke. It is not the sincere fears that gave it strength. There was indeed some apparent reason

for these fears in the course pursued in the South against the colored people. The emancipation of the slaves was one of the legitimate results of the war. What was the legitimate result of emancipation? Had not that great Southerner, John C. Calhoun, always said that with emancipation must come equality before the law — civil and even political rights? Was not the latter result hastened by the unwisdom of extremes? It was extremes on both sides that hastened the grant of the franchise to a class who were unprepared to exercise it. But it was only hastened, for eventually the South herself would concede the franchise when it would be more intelligently exercised.

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One of the main difficulties of intelligent discussion in respect to the constitutional questions involved in secession and reconstruction, is the misuse of terms. Secession was not "war"; it was "insurrection." The effort for its suppression had to be made in the mode of civilized warfare, because of the force and extent of the resistance to be overcome; and because foreign governments recognized the South as a belligerent power. But these facts could not affect the true relation of the national government to the question, which was simply one of insurrection and the constitutional requirement for its suppression.

Before closing this chapter, the writer takes a patriotic pride in being able to say that throughout the whole period of civil war and reconstruction, in every debate in the National Legislature, in every act of the Executive, and in every decision of the Judicial branch of the government, there was ever an earnest protestation of submission to the Constitution of the United States. The worst excesses of partisanship did not dare to openly evade its mandates. Even the South, which had tried to dissever its Federal relations, again appealed, as it had the right to do, to the protection of that palladium of their government — THE CONSTITUTION.

CHAPTER XX.

RECONSTRUCTION IN THE HOUSE OF REPRESENTATIVES.

DIALECTICS AND SOPHISTRIES OF THE RADICALS — THADDEUS STEVENS AS A LEADER — A MAN OF IRON — HIS TALISMANIC POWER — THE VICTORS' SPOILS — PERPETUATION OF REPUBLICAN RULE — THE DEAD STATES — THE CONSTITUTION IGNORED — THE LAW OF NATIONS FOR THE SOUTH — BELLIGERENT RULES IN PEACE — PRIZE LAW FOR THE STATES — UNION ON CONDITION OF NEGRO SUFFRAGE — THE RADICAL FALLACIES — THE FEDERAL GANGLION — THE DOCTRINE OF CONQUEST — CONFISCATION AND CONFEDERATE DEBTS — INDESTRUCTIBILITY OF THE STATES — CONSTITUTIONAL RECONSTRUCTION.

THE author was not at first impressed with the genius and ability of Thaddeus Stevens. In the Thirty-sixth Congress, when Governor Pennington was elected Speaker after a prolonged struggle, this Pennsylvanian of Vermont birth did not appear to advantage. His only effort in that struggle was a motion of immaterial consequence about the deadlock. He then subsided into a seeming stolid mediocrity. But he was far removed from mediocrity. He had a will of audacious and intolerant quality. His humor was not like that of "Ben" Harden or "Tom" Corwin,— iridescent and genial. It smacked of Voltaire. It had lurid lights. The intensity of his hatred was only next to infernal; but he seldom indulged it. He never hated a fair opponent. He did hate, bitterly, some of his own party who would not follow his doctrine, and obliterate states in order to territorialize and terrorize them. He had Pluto's iron countenance; but he could unbend and be kindly. His neighbors of all classes and colors and of both sexes, in and about Lancaster County, remember him as almost genial, notwithstanding the inflexibility of his countenance and the determination of his character. He was, more even than Judge Howe or Mr. Sumner, the constructionist of the new order and the obstructionist to the rebuilding of the older order. In the House of Representatives, early in the first session of the Thirty-eighth Congress, on the 5th of December, 1865, he arose

to dictatorship. He commanded universal party obedience. That Congress had great parliamentary ability. It had its Washburnes, its Wilsons, its Binghams, its Shellabargers, and its Blaines. It had but one Thaddeus Stevens. This man was not superficial. He was profound. He knew that the times called either for retrogression from his war policies, or else organic and risky forwardness. He would not ask to carry out the Constitution. He would, at least, first amend it. How? Thus, for example: "Neither the United States, nor any state in the Union, shall ever assume or pay any part of the debt of the so-called Confederate States of America, or of any state, contracted to carry on war with the United States." On the same day that he offered this he proposed the following amendment to the Constitution: "Amend the ninth section of the first article by expunging so much thereof as says: 'No tax or duty shall be laid on articles exported from any state.'" This was a cunning, tentative tender to his party. It was to be followed by almost inconceivable audacities of policy; for, on the same day, he moved another amendment to the Constitution. It was this: "Representatives shall be apportioned among the states which may be within the Union, according to their respective legal voters, and for this purpose none shall be named as legal voters who are not either native-born citizens or naturalized foreigners. Congress shall provide for ascertaining the number of said voters. A true census of the legal voters shall be taken at the same time with the regular census." Would he stop here? By no means. On the same day he introduced the following amendment: "Article XIII. All national and state laws shall be equally applicable to every citizen, and no discrimination shall be made on account of race and color." All of these proposed amendments, except that which was intended to authorize the taxation of exports, have been incorporated into the Constitution, substantially, though in more guarded language. The failure to adopt the proposed amendment allowing a tax on exports did not prevent Congress, however, from imposing a tax on cotton, a product mostly raised for exportation. Sixty-seven millions of dollars of cotton taxes were collected.

The right to govern the insurgent states as territories, Mr. Stevens asserted as necessary. Many curious logical difficulties arose from the admission of that right. To deny the right of secession and to assert the right to suppress a rebellion in which the authorities in the states are involved, and at the same time to concede to the people of such states, upon surrendering their arms, the right to resume their position as citizens, with all the privileges of citizens, would seem to some minds to be at least impolitic. But, admitting that the United States Government has the right to maintain its authority against the authorities of a state, or a combination of state authorities, does it follow that the right to govern these states as territories must be conceded to the United States when no insurrection exists? The idea of holding, for a generation perhaps, any people, whether they

be citizens of revolted states, or foreigners, under gove[illegible] belligerent in a [illegible]y forced upon them by a power external to them, is rep[illegible]sary, to constitut[illegible]lican principles, to the spirit of liberty, and to sound p[illegible]nt nations, or for[illegible]ea was suggested by Congress, or the Executive, whe[illegible]ligerents claims so[illegible] to defend and maintain the Union. But Mr. Stevens states could not an[illegible] motives that actuated the defenders of the Union who[illegible], and that their [illegible]ession. That iron man of an iron state gave his reasons w[illegible]viduals, Mr. S[illegible]etoric for these amendments. He seldom spoke at length[illegible] "Individ[illegible] 18th of December, 1865, he unfolded with no unmusical n[illegible]t is not wa[illegible]rsuasive voice his audacious, sweeping, and vindictive policies. [illegible]illim[illegible]story demands its reproduction, for it presents the whole architectural design of radical reconstruction. He said to the listening House, taking the President's message for his text:

"A candid examination of the power and proper principle of reconstruction can be offensive to no one, and may possibly be profitable by exciting inquiry. One of the suggestions of the message which we are now considering has special reference to this. Perhaps it is the principle most interesting to the people at this time. The President assumes, what no one doubts, that the late rebel states have lost their constitutional relations to the Union, and are incapable of representation in Congress except by permission of the government. It matters but little, with this admission, whether you call them states out of the Union, and now conquered territories, or assert that because the Constitution forbids them to do what they did do, that they are therefore only dead as to all national and political action, and will remain so until the government shall breathe into them the breath of life anew, and permit them to occupy their former position. In other words, that they are not out of the Union, but are only dead carcasses lying within the Union. In either case it is very plain that it requires the action of Congress to enable them to form a state government, and send representatives to Congress. Nobody, I believe, pretends that with their old constitutions and frames of government they can be permitted to claim their old rights under the Constitution. They have torn their constitutional states to atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves. Dead states cannot restore their own existence 'as it was.' Whose especial duty is it to do it? In whom does the Constitution place the power? Not in the judicial branch of the government, for it only adjudicates, and does not prescribe laws. Not in the executive, for it only executes, and cannot make laws. Not in the commander-in-chief of the armies, for he can only hold them under military rule until the sovereign legislative power of the conqueror shall give them law.

"There is fortunately no difficulty in solving the question. There are two provisions in the Constitution, under one of which the case must fall. The

fo dictatorship. h ‘New states may be admitted by the Congress into this Unio great parliamen ament this is the controlling provision in this case. Unless ns, its Shellabarg is a dead letter, the late war between two ac- knowledge This man was nov red their original compacts and broke all the ties that bo led either for retro . The future condition of the conquered power depends on ess. He wou conqueror. They must come in as new states or remain as con end it. Ho ces. Congress — the Senate and House of Representatives — with e in the Un rence of the President, is the only power that can act in the matter. B erate S ose, as some dreaming theorists imagine, that these states have never been out of the Union, but have only destroyed their state governments, so as to be incapable of political action, then the fourth section of the fourth article applies, which says: ‘The United States shall guarantee to every state in this Union a republican form of government.’ Who is the United States? Not the Judiciary. Not the President; but the sovereign power of the people, exercised through their Representatives in Congress, with the concurrence of the Executive. It means the political government — the concurrent action of both branches of Congress and the Executive. The separate action of each amounts to nothing, either in admitting new states or in guaranteeing republican governments to lapsed or outlawed states. Whence springs the preposterous idea that either the President, or the Senate, or the House of Representatives, acting separately, can determine the rights of states to send members or Senators to the Congress of the Union? To prove that they are, and for four years have been, out of the Union for all legal purposes, and being now conquered, subject to the absolute disposal of Congress, I will suggest a few ideas and adduce a few authorities.”

Before citing these authorities Mr. Stevens took the position that the so-called “Confederate States of America” were either an independent belligerent power, and were so acknowledged by the United States and by Europe, or else they had assumed and maintained an attitude which entitled them to be considered and treated as a belligerent for four years. During such time, they were precisely in the condition a foreign nation would be with whom we were at war. Their independence as a nation need not be acknowledged by us to produce that effect. This was Mr. Stevens’ position. He cited the able opinion delivered by that accomplished, and as he said, “loyal jurist,” Mr. Justice Grier, in the Prize cases, where all the law on these points is collected. (2 Black, page 66.) Following Vattel, he attempted to show that international law would regard the insurrection in the South as a war — a civil war.

“When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents and the

contest is a war." So says Vattel. Again: "The parties belligerent in a public war are independent nations. But it is not necessary, to constitute war, that both should be acknowledged as independent nations, or foreign states. A war may exist where one of the belligerents claims sovereign rights as against the other." The idea that the states could not and did not make war, because the Constitution forbids it, and that their effort for independence must be treated as a war of individuals, Mr. Stevens regarded as a very injurious and groundless fallacy. "Individuals cannot make war. They may commit murder, but that is not war. Communities, societies, states, make war." He cited Phillimore to prove that war between private individuals who are members of a society cannot exist; and that the use of force in such case is trespass, and not war.

"But why appeal to reason," triumphantly asks Mr. Stevens, "to prove that the seceded states made war as states, when the conclusive opinion of the Supreme Court is at hand? In the Prize cases already cited, where the Supreme Court say of the seceding states, that in organizing the rebellion they have acted as states claiming to be sovereign over all persons and property within their respective limits, and asserted a right to absolve their citizens from allegiance to the Federal Government; that these states had combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign state; that their right to do so is now being decided by wager of battle; that the ports and territory of each of these states are held in hostility to the general government; that it is no loose, unorganized insurrection, having no defined boundary or possession; that it has a boundary marked by lines of bayonets which can be crossed only by force; and that south of this line is enemy's territory, because it is claimed and held in possession by an organized hostile and belligerent power."

Mr. Stevens was astonished that any one should doubt that the proclamation of blockade was of itself, as the Court declared it to be, official and conclusive evidence that a state of war existed.

What was the legal result of such war? Mr. Stevens answered from Vattel and Halleck that the conventions, the treaties made with a nation, are broken or annulled by a war arising between the contracting parties. He said, referring to Vattel, that a civil war breaks the bonds of society and government, or at least suspends their force and effect; and that it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties must therefore, he concluded, be considered as thenceforward constituting, at least for a time, two separate bodies; two distinct societies. "They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms."

No one can refute the following propositions: When a nation becomes divided into two parties absolutely independent, and no longer acknowledging

a common superior, the state is dissolved, and the war between the two parties stands on the same ground; in every respect, as a public war between two different nations; the belligerent need not be acknowledged as an independent nation; insurrection, when belligerent parties are in hostile array, is not the less a civil war because it may be called an "insurrection," and the insurgents be considered as rebels or traitors by one of the parties; it is not necessary that the independence of the revolted province or state be acknowledged, in order to constitute it a party belligerent, according to the law of nations.

These doctrines, contended for by Mr. Stevens, had been clearly established by publicists, and distinctly stated by Mr. Justice Grier. They have been frequently reiterated since by the Supreme Court of the United States. In Mr. Alexander's case (2 Wallace, 419), Chief Justice Chase, delivering the opinion of the Court, says:

"We must be governed by the principle of public law, so often announced from this bench as applicable to civil and international wars, that all the people of each state or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and Executive, or otherwise, that relation is thoroughly and permanently changed." But neither on these principles nor on the ground of estoppel, for which Mr. Stevens contended, had the United States a right to elect to adjudge the seceding states out of the Union. "They are estopped," said Mr. Stevens, "both by matter of record, and matter *in pais*." He cites in estoppel one of the first resolutions passed by seceding South Carolina, in January, 1861, as follows:

"*Resolved*, *Unanimously*, That the separation of South Carolina from the Federal Union is final, and she has no further interest in the Constitution of the United States; and that the only appropriate negotiations between her and the Federal Government are as to their mutual relations as foreign states."

How completely Mr. Stevens puts himself outside of the Constitution! At every step he relies on the law of nations and not on the law of the Union or the law of love. Continuing his argument he said, treating of the secession ordinances: "Similar resolutions appear upon all their state and Confederate records. The speeches of their members of Congress, their generals and executive officers, and the answers of their government to our shameful suings for peace went upon the defiant ground that no terms would be offered or received except upon the prior acknowledgment of the entire and permanent independence of the Confederate States. After this, to deny that we have the right to treat them as a conquered belligerent, severed from the Union in fact, is not argument, but mockery. Whether it be our interest to do so, is the only question hereafter, and more deliberately, to be considered. But suppose these powerful but now subdued belligerents, instead of being out

of the Union, are merely destroyed, and are now lying about as dead corpses, or with animation so suspended as to be incapable of action, and wholly unable to heal themselves by any unaided movements of their own? Then they may fall under the provision of the Constitution which says, 'the United States shall guarantee to every state in this Union a republican form of government.' Under that power, can the Judiciary, or the President, or the commander-in-chief of the army, or the Senate, or House of Representatives, acting separately, restore them to life and re-admit them into the Union? I insist that if each acted separately, though the action of each was identical with all the others, it would amount to nothing. Nothing but the joint action of the two houses of Congress and the concurrence of the President could do it. If the Senate admitted their Senators, and the House their members, it would have no effect on the future action of Congress. The Fortieth Congress might reject both. Such is the ragged record of Congress for the last four years. In Luther *vs.* Borden, the Supreme Court says: 'Under this article of the Constitution [the one above cited], it rests with Congress to decide what government is the established one in a state. For as the United States guarantee to each state a republican government, Congress must necessarily decide what government is established in the state before it can determine whether it is republican or not.' Congress alone can do it. But Congress does not mean the Senate, or the House of Representatives, and President, all acting severally. Their joint action constitutes Congress. Hence a law of Congress must be passed before any new state can be admitted, or any dead state revived. . . . It is obvious from all this that the first duty of Congress is to pass a law declaring the condition of these outside or defunct states, and providing proper civil governments for them. Since the conquest, they have been governed by martial law. Military rule is necessarily despotic, and ought not to exist longer than is absolutely necessary. As there are no symptoms that the people of these provinces will be prepared to participate in constitutional government for some years, I know of no arrangement so proper for them as territorial governments. There they can learn the principles of freedom, and eat the fruits of foul rebellion. Under such governments, while electing members to the territorial legislatures, they will necessarily mingle with those to whom Congress shall extend the right of suffrage. In territories Congress fixes the qualifications of electors; and I know of no better place, nor better occasion for the conquered rebels and the conqueror to practice justice to all men, and accustom themselves to make and obey equal laws.

"According to my judgment," said Mr. Stevens in making his concluding application, "they ought never to be recognized as capable of acting in the Union, or of being counted as valid states, until the Constitution shall have been so amended as to make it what its framers intended; and so as to secure perpetual ascendency to the party of the Union; and so as to render

our republican government firm and stable forever. The first of those amendments is to change the basis of representation among the states from Federal numbers to actual voters. Now all the colored freemen in the slave states, and three-fifths of the slaves are represented, though none of them have votes. The states have nineteen representatives of colored slaves. If the slaves are now free, then they can add, for the other two-fifths, thirteen more, making the slave representation thirty-two. I suppose the free blacks in those states will give at least five more, making the representation of non-voting people of color thirty-seven. The whole number of representatives now from the slave states is seventy. Add the other two-fifths and it will be eighty-three. If the amendment prevails, and those states withhold the right of suffrage from persons of color, it will deduct about thirty-seven, leaving then but forty-six. With the basis unchanged, the eighty-three Southern members, with the Democrats that will in the best times be elected from the North, will always give them a majority in Congress, and in the Electoral College. They will at the very first election take possession of the White House, and the halls of Congress. I need not depict the ruin that would follow. Assumption of the rebel debt, or repudiation of the Federal debt, would be sure to follow. The oppression of the freedmen; the re-amendment of their state constitutions, and the re-establishment of slavery would be the inevitable result. That they would scorn and disregard their present constitutions, forced upon them in the midst of martial law, would be both natural and just. No one who has any regard for freedom of elections can look upon those governments, forced upon them in duress, with any favor. If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendency. If they should refuse to thus alter their election laws, it would reduce the representatives of the slave states to about forty-five, and render them powerless for evil. It is plain that this amendment must be consummated before the defunct states are admitted to be capable of state action, or it never can be."

Mr. Stevens insisted that homesteads should be given to the emancipated slaves. But the mode proposed — confiscation of land — did not agree with his war theory. Conquerors are presumed to respect property rights. His theory in regard to the effects of secession and resistance to the laws of the United States, differed in mode only from that of the secessionists. They claimed that the states had the constitutional right to secede, while he conceded to them the physical power to secede. On either theory, their condition in the event of defeat would seem to be as Mr. Stevens described it, that of conquered territories, without governments and without laws. He held that they were completely at the mercy of the conqueror. As a conquered people, they might be dealt with as the monarchies of

Europe deal with conquered provinces, without regard to the nature of our republican institutions, or the limits of constitutional authority. There is no authority given by the Constitution to hold conquered territory as a province, with the people inhabiting it deprived of the right of self-government and equal representation in Congress. Whenever our government shall enter upon a career of conquest and subjugation, it will forfeit its character of a free republic, in which equal rights are guaranteed to all men.

In regard to the political weight which the South derived from the presence and representation of its colored population, Mr. Stevens was a little in error. Instead of the South being entitled to seventy representatives under the apportionment based on the census of 1860, counting three-fifths of the negroes, it was entitled to eighty-five. He said that the seventy would be increased to eighty-three if the remaining two-fifths were represented; whereas, on that basis the eighty-five would have risen to ninety-eight. He proposed to take from the South the whole negro representation, which, he said, would reduce the representation to about forty, whereas it would have remained at about fifty-five or fifty-six. He doubtless had in his mind the representation of the Confederate States, when he spoke of the Southern representation being seventy.

Does the line of argument followed by Mr. Stevens touch the real merits of the question? Does it show any acknowledgment that the Constitution is the ganglion, the productive organ of Federal action; and that its powers are the nerve-fibres which alone give vital force to the will of Congress? His points, citations, and conclusions might be convincing in a prize case, where the court "must be governed by the principles of public law . . . applicable to civil and international wars." They might do very well in any suit involving only personal or property rights. But his argument was not in the line of statesmanship. There was no precedent applicable to the case. The question presented was political. No Federal or state court could take jurisdiction for its determination. Neither municipal nor international law could furnish principles for determining the relation of any state of the Union to the government of the United States while the Federal Constitution remained a binding instrument on that government and the states respectively. There, in that charter, in it alone is to be found the decisive rules for congressional action. Where in that charter is to be found the doctrine of forfeiture of state rights? Where the doctrine of state *felo-de-se?* Where of war between the states?

If by reason of the extent of the insurrection, and the action of foreign powers we were compelled to suppress secession under the rules of war, does it follow that the insurrection was a war? The words "rebel" and "insurgent" imply citizenship. They do not imply alienage. Suppose the State of Maine were now to pass an ordinance of secession, assert her independ-

ence, and resist with all her force the national authority, would that be *felo-de-se?* Would she be no longer a state of the Union? If not, by what right could we assume to make a *conquest* of her territory? If Mr. Stevens' argument were a sound one, would not the Canadians have as good a right to ask her to join their Confederation as we should have to ask her to return to the Union? Would they not have as much right to use force in defending her as we should have to make *war* on her?

The argument from belligerency, like that for the right of secession, be it ever so strong, can have no force where there is devotion to brotherly unity. Could separation be effected without warlike hostilities? If it can, it must be because parties are so evenly balanced, and so distinctly marked and divided by a geographical line athwart the continent, that war between them would be manifest folly. On the contrary, if secession must always be effected by war, it will never be resorted to unless there is great unanimity in a large and contiguous portion of the Union. Wherever and whenever this is the case, no one can successfully dispute the right of the government to resist separation in the modes of war. What would any one care for the abstract "rights" of secession? Even the secession leaders disregarded their own theory when they apprehended that it might be turned against themselves. They stood ready to overwhelm the menaced secession of North Carolina from the Confederacy, by the troops of adjacent and sister states. To hold states as territories after a war for a Union of states, is just as illogical.

Suppose the radical doctrine is admitted, on what grounds of ethics or international law is the "Confederate war debt" to be repudiated? Suppose we should conquer Mexico, could we lawfully repudiate the debts of her government? When we came to amend the Constitution, after the national authority had asserted itself over the insurgent states, did we speak of war or conquests, or prohibit the payment of any war debts? No. We said: "But neither the United States, nor any state, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States." Was this an admission that we had conquered territories in a war? Was it not a plain assertion that the strife was an insurrection and rebellion, and that all contracts in aid of it were null and void. Payment of them cannot even be voluntary. States and Congresses which might desire to pay them are prohibited from so doing. When secession is treated in the constitutional way, as an insurrection or rebellion, no questions can arise that will involve contradictory conclusions. The moment the Federal power withdrew its action into its own sphere, that moment the sovereignty of the states asserted itself. To this course, the calming influences of better judgment at last brought the people of the North. It would have been reached in a very short time if moderation, and not passion, had obtained sway in the councils of the Nation.

CHAPTER XXI.

TEMPORARY STATE REORGANIZATION IN THE SOUTH.

STATUS OF THE COLORED PEOPLE — DEMANDS FOR THEIR ENFRANCHISEMENT — THE FIRST RECONSTRUCTION ACT — PRESIDENT JOHNSON'S VETO — THE ATTORNEY-GENERAL'S OPINION — MARTIAL LAW TO GOVERN THE SOUTH — DISFRANCHISEMENT OF THE INTELLIGENT — PRESIDENT JOHNSON'S POLICY — ITS OPERATION — REORGANIZATION IN TENNESSEE — WILLIAM G. BROWNLOW ELECTED GOVERNOR — SECESSION ORDINANCES ANNULLED — CONFEDERATE ACTS AND OBLIGATIONS MADE VOID — CONSTITUTIONAL AMENDMENTS — DISUNIONISTS DISFRANCHISED — SLAVERY ABOLISHED — CIVIL RIGHTS GRANTED TO COLORED PEOPLE — THEY ARE NOT TO VOTE, HOLD OFFICE, OR SIT ON JURIES — CONGRESS APPROVES OF THIIS COURSE — TENNESSEE ADMITTED TO FEDERAL RELATIONS, JULY 24, 1866 — UNION SENTIMENT IN NORTH CAROLINA — PRESIDENT JOHNSON'S ATTEMPT TO REHABILITATE THAT STATE — GOVERNOR VANCE'S ADVICE — PROVISIONAL GOVERNOR HOLDEN APPOINTED — HEARTY REPEAL OF THE SECESSION ORDINANCE — CONVENTION AND LEGISLATIVE WORK — IT DOES NOT SATISFY CONGRESS — NORTH CAROLINA TO REMAIN A CONQUERED PROVINCE.

THE temporary organizations of the Southern States under the proclamations of Presidents Lincoln and Johnson were suffered to remain in force until the spring of 1867. In none of them was the suffrage conferred upon colored men, and in some of them the legislatures enacted laws which discriminated against the colored people in other respects. Some tutelary legislation was contemplated by Mr. Lincoln in behalf of the freedmen. It was hinted at in his proclamation of Dec. 8, 1863, as a temporary expedient consistent "with their present condition as a laboring, landless, and homeless class." But this concession to the state legislatures was far from being satisfactory to the majority of Congress. The discriminating laws, though guarded in terms, and intended to protect the emancipated slaves, were to be enforced by men who had held them in slavery. It was surmised that these men would abuse a trust which was a limitation upon their long-exercised, hereditary and absolute authority. Loud complaints were soon heard of the tyranny and cruelty exercised over

the blacks. Congress was in no mood to listen to such complaints with indifference. Northern and congressional sentiment was rapidly developing in favor of a more radical treatment of the South. It began to be believed that nothing short of an unqualified grant of suffrage to the negroes would secure them peace, with justice. It was also thought that the predominance of the Republican party would be assured by such a grant. As a tentative measure, bills were introduced in each house for the establishment of negro suffrage in the District of Columbia, and in all the territories. The bill for the District encountered strenuous opposition. Many Republican Representatives from states which confined the right of suffrage to white men, or encumbered it in the case of colored men with educational or property qualifications, naturally hesitated. When called on by the exigencies of party to invest with the franchise the whole mass of illiterate blacks in other communities which had no voice in determining the question, they hesitated. But they overcame their scruples, and in January, 1867, the District bill was passed, over President Johnson's veto. The Territorial Suffrage bill was adopted by both houses, during the same month, by overwhelming majorities.

In pursuance of the same policy, the act known as the Reconstruction act was likewise passed by Congress over the President's veto, on March 2, 1867. This bill goes under a misnomer. It is entitled, "An Act to provide for the more efficient government of the rebel states." It should have been called, "An Act for the more thorough military subjugation of the states lately in insurrection against the United States." The act, after alleging that no legal state governments or adequate protection for life and property existed in the states of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, provided that these states should be divided into five military districts, under the command of officers of the army assigned thereto by the President. Each of these commanders was to have under his control troops enough to enforce his authority. The power conferred on these commanders within their districts was almost unlimited. The fifth and sixth sections of the act authorized the people to reconstruct their state governments by spontaneous action, though on prescribed conditions. These sections, however, were superseded by the act of March 23d, following. This act not only fixed the conditions of reconstruction, but provided that the process should be inaugurated and conducted by the military commanders.

In assigning his reasons for withholding his signature from this measure, President Johnson denied that the states in question were without legal governments. He insisted that the true purpose of the bill was not to enforce peace and good order, but to compel the people of those states to confer the right of suffrage on the negro, and to ratify the Fourteenth Amendment to the Constitution of the United States. In the course of his long and searching analysis of the bill, the President criticised the powers it conferred

on the military commanders. He said: "The power thus given to the commanding officers over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. . . . Everything is a crime which he chooses to call so, and all persons are condemned whom he pronounces to be guilty. . . . He may arrest his victims wherever he finds them, without warrant, accusation, or proof of probable cause. If he gives them a trial before he inflicts the punishment, he gives it of his grace and mercy, not because he is commanded to do so. To a casual reader of the bill, it might seem that some kind of a trial was secured by it to persons accused of crime, but such is not the case. The officer 'may allow local civil tribunals to try offenders,' but, of course, this does not require that he shall do so. If any state or Federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up, and punish the judges and jurors as being themselves the malefactors. It is plain that the authority here given to the military officer amounts to absolute despotism. . . . Such a power has not been wielded by any monarch in England for more than five hundred years. In all that time no people who speak the English language have borne such servitude."

This was strong language, but it cannot be regarded as exaggerated. The South was subjected to military despotism, pure and simple. It is vain to attempt to disguise the fact. Mr. Stevens, of Pennsylvania, as shown in a preceding page, denounced President Johnson's reconstruction policy as arbitrary, and the constitutions formed under it as having been adopted under duress; and lo! his own measure was tenfold more arbitrary and despotic The little finger of the legislature was thicker than the President's loins.

Mr. Johnson went on to show, in an elaborate argument, that the act violated the plainest provisions of the Constitution. It established martial law in a time of profound peace; it suspended the writ of *habeas corpus;* it swept away every vestige of republican government in ten states; and it was, in fact, a bill of attainder against nine millions of people at once. He exposed the tyrannical and unconstitutional character of this act, with force and clearness. But it was so flagrant a departure from all the landmarks of civil liberty, as set up and observed from the days of *Magna Charta* to the present times, that argument would seem entirely superfluous. Apart from the absolute despotism which the act established over the Southern people, there were wholly unnecessary infractions of the Constitution, in the clauses which ignored and attempted to exclude the legitimate authority of the President of the United States, in favor of the commander of the army, who in effect, was made the executive of the Nation. Mr. Sumner, in *ante-bellum* days, was wont to refer to the congressional enactment in reference to fugitive slaves, as the "Fugitive Slave Bill." He would never allow it to be an "act." That term implied, as he said, a constitutional exercise of power by

Congress. Mr. Webster, while voting for the measure of 1850, admitted that, but for the decision of the Supreme Court, he should deny the power of Congress to legislate on the subject. But it could at least be said in behalf of the constitutionality of that "bill," that there was a clause in the Constitution which required the return of "fugitives from labor," while no clause in the Constitution can be tortured into an authority for setting up military satrapies in any part of the Union, whether in states or territories. Yet the Massachusetts Senator, in his zeal for liberty, was actively instrumental in passing this "bill" for the establishment of a military despotism in the South. The President's reasoning proved of no avail to prevent the passage of the bill. It became an "act." On the 12th of June, Attorney-General Stanbery addressed a letter to the President upon the proper construction of the act. In this letter he applied the rule that "a statute creating a new jurisdiction ought to be construed strictly," so as to strip the military commanders of the power to remove and appoint governors, judges, and other state officers, to suspend the execution of the process of the courts, and to make laws for the people.

Two days after the date of this opinion, the commander of the Second military district addressed a telegram to the Attorney-General, in which he represented that the power to remove civil officers was indispensable to the proper discharge of his duties. It is probable that other military commanders in the South urged similar reasons for the exercise of unlimited power. The effect was to induce the passage by Congress of the act of July 19th, of the same year, declaratory of the true intent and meaning of the Reconstruction acts. This swept away the construction placed upon the former acts by the Attorney-General, and gave each district commander the power to remove any officer whose authority was derived from the local government; subject only to the disapproval of the general of the army. The tenth section of the last mentioned act provided, "That no district commander, or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States." The justice of Mr. Johnson's strictures upon the Reconstruction act of March 2, 1867, will not be questioned. It was in violation of the Constitution. It did not merely hold the conquered people under military subjection, after their surrender, until order and civil rule could be re-established; but it deliberately overthrew and superseded an established civil rule, in order to constrain the people to the adoption of certain organic measures.

The intrinsic difficulties of the situation are not to be denied. The ruling classes of the Southern people had attempted to disrupt the Union in order to establish their own independence. The overthrow of their armies had not changed their opinions nor their feelings. Necessity compelled their submission, but necessity could not make them love a union with the victorious North, nor make them cordially recognize and support the rights of the freed-

men. The local state officials of the eleven confederated states were as hostile to the Union and to the freedom of the negroes as those of the exploded Confederacy had been; and they had all committed treason, as defined by the Constitution. When the Confederate armies surrendered, the people of those states had neither governors nor judges, nor administrative officers that the government of the Nation could at once recognize. Hence it did not seem politic to treat any of them as having official authority over the people. To deny this, at that time, was simply to deny the right of the government to suppress the rebellion and to maintain the Union. Reconstruction, therefore, became a political necessity. But it was wholly inconsistent with the theory of our government to hold millions of people, inhabiting extensive territories, in military, or even in provincial subjection a moment longer than might be absolutely necessary. Besides this, it would involve the necessity of a large standing army. It might lead to the overthrow of state governments, and to the consolidation of the Union into a military despotism. Better far, that the Union should be dissolved, than that it should be made the instrument of military ambition. The right of the people in every state to self-government is inherent and inalienable. The Constitution provides that the United States shall guarantee to every state a republican form of government. The government of the United States may, and must, therefore, for this sole purpose, take temporary charge of the people of a state whose legitimate government is overthrown. It may not establish a military despotism, but it may temporarily, from the necessity of the case, maintain peace and order, through the instrumentality of a military government until civil authority can assert itself. The constitutional guarantee of "a republican form of government" cannot be made good unless this exercise of Federal power be conceded.

It is equally clear that the government may impose conditions of reconstruction; for, otherwise, a rebellious people might re-establish their former constitutions and laws, and reinstate their disloyal officials. President Johnson, in the message accompanying his veto of the Reconstruction bill, seemed to deny this right of interposition on the part of the general government for the purpose of dictating the conditions of restoration, though he had set the example by exercising it himself. In the course of his argument he said that the bill not only thrusts the privilege of voting into the hands of the negroes, but compels them, as well as the whites, to use it in a particular way. Therefore he desired to ask the attention of Congress to the universally acknowledged rule of constitutional law, which declares that the Federal Government has no jurisdiction, authority, or power to regulate such subjects for any state. To force the right of suffrage out of the hands of the white people and into the hands of the negroes, he pronounced an arbitrary violation of this principle. This reasoning of the President cannot be reconciled with his position and action in his Amnesty

proclamation of May 29, 1865, nor with his proclamation of the same date, appointing William W. Holden provisional governor of North Carolina. In that initial measure of reconstruction, he made it the duty of Governor Holden to prescribe the necessary rules for calling a convention to amend the constitution of the state. He established qualifications for the electors and delegates that excluded from taking any part in the convention, nearly all the former governing class of the state. And in extending the like measure to the other Southern states, he followed the same disfranchising policy, which produced the same result. He commenced reconstruction in North Carolina and the other states by setting aside their existing governments. He could see no other course. In principle there was no difference between the former mode of the President and the present mode of Congress. But in motive there was a difference as far apart as the poles.

In dispatches to the provisional governors whom he had appointed in 1865, the President, and his Secretary of State, Mr. Seward, urged the necessity of forming state constitutions which would abolish slavery, and repudiate all obligations to pay the state and Confederate war debts These injunctions amounted to commands, since compliance with them was made an essential condition of restoration to Federal rights. At that time there was a manifest necessity for Federal intervention and dictation, in the work of reconstruction. But the success of President Johnson in constraining the adoption of measures which he then deemed to be essential conditions of reconstruction, under forms of government reinstituted by the people themselves, proves that the congressional policy might have been carried out in the same way, and by the same state governments. Under the President's policy, constitutions were framed which abolished slavery, repudiated the state war debts, and declared the union of the states to be perpetual and inviolable. With the background of the Fourteenth Amendment, which, in effect, restricts representation to the voting population, and with the certainty that Representatives would never be received on any other basis, negro suffrage would have been adopted more cheerfully, and by a larger proportion of the white vote, without the aid of the congressional military governments. As it was, the constitutions which embraced those radical changes were adopted mainly by negro votes. Not more than one white vote in ten was cast in their favor, except in North Carolina. In that state, not more than three in ten. Half the white people, who were not disfranchised, stood aloof, sullen and passive, or intimidated spectators. There could be no doubt that the adoption by Congress of Mr. Johnson's exceptions, which excluded a large portion of the intelligence and wealth of the South from the privileges of amnesty and suffrage, added much to this unfortunate temper of the people. The aged, the experienced, the cool-headed, and the sagacious men of the South were excluded by the exceptions. The very

men who would most clearly see the folly of further resistance to the general government, and the necessity of acquiescence in the inevitable results of the war, were excluded. Those of the white people who were permitted to vote under Mr. Johnson's measures of reconstruction voted against the adoption of the Fourteenth Amendment, for the sole and avowed reason that it proposed to engraft on the Constitution those very exceptions from the privileges of amnesty and leadership. The younger and less distinguished classes refused to be made instrumental in fastening a stigma and a yoke upon their elders, their leaders, and their superiors in intelligence and wealth, whom they had followed, and whom they felt to be no more obnoxious to the penalties of rebellion than themselves. They refused to liberate themselves from political thraldom by the adoption of a measure which would degrade and disfranchise their dearest friends; and their conduct in this respect was manly and worthy of all praise.

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Tennessee was the first of the seceding states to resume her proper authority. She contained a larger proportion of pronounced Union men than any other state that entered the Confederacy. A controlling majority of the people of East Tennessee remained loyal to the government. There were, also, many leading men in the middle and western counties who never swerved from their attachment to the Union. Within her borders the war was indeed internecine. What was the consequence? Great destruction of private property, with murder and rapine. But there was some compensation for her special sufferings. She escaped from the Caudine Forks without passing beneath the yoke of the Reconstruction acts. She was the first of the Confederate sisterhood to succumb to the Union arms. She was also the first re-admitted to representation in Congress and to the enjoyment of the "practical relations" in the Union. The national forces took possession of the state in the latter half of February, 1862. The constitutional authority was promptly re-established over the greater part of the state. Immediately after the capture of Nashville, President Lincoln appointed Andrew Johnson military governor of Tennessee. Mr. Johnson had been a life-long member of the Democratic party. He had served five terms in the House of Representatives. He had been governor of the state. When the war came he was a member of the United States Senate. In that body he took a firm stand for the Union, and greatly distinguished himself in debate in reply to Jefferson Davis and other extremists. The author confesses to a partiality that may affect his judgment of this tribune of the people. Now that he has gone to another tribunal, his eulogy may not be accounted ecstasy, but honesty. How he helped to save the Republic, through this grand state of Andrew Jackson, James K. Polk, and Felix Grundy, will appear in the sequel. As military governor he was chiefly employed in efforts to restore order and win back the people to the

support of the Union. He acted with characteristic vigor and resolution, and thus gained the confidence of the country. Into the details of these efforts it is not the purpose here to enter.

In 1864, attempts were made to re-establish civil government in the state. A popular convention at Nashville, on Jan. 9, 1865, nominated William G. Brownlow for governor. It proposed amendments to the state constitution, which were ratified on Feb. 22d, by a vote of 25,293 to 48. The result was announced by a proclamation of the governor, and a state election was held on March 4th, for governor, legislature, and state officers. By the constitutional amendments adopted, slavery was abolished, the ordinance of secession was annulled, all acts of the Confederate authorities were declared void, the payment of any obligations contracted by them was forbidden, and all of Governor Johnson's appointments were confirmed. The legislature thus chosen proceeded to reorganize the state government, and to take measures necessary for carrying into effect the new provisions of the organic law. The most important of these measures was the franchise act, passed on June 5, 1865, and amended on May 3, 1866. This act restricted suffrage to loyal white men; in the language of the act — to those who were "publicly known to have entertained unconstitutional Union sentiments from the outbreak of the rebellion until the present time." Acts were also passed early in 1866, to secure the civil rights of persons of color; but expressly excepting therefrom the right to vote, to hold office, and to sit on juries. None of them required the education of colored and white children in the same schools. In consequence of these enactments all freedmen's courts in Tennessee were abolished. The course of the new government was approved by Congress. A joint resolution restoring Tennessee to her relations to the Union was passed on July 23, 1866. It received the President's signature on the 24th. The preamble reads as follows:

"Whereas, in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States; and the inhabitants of said state, in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas, said government can only be restored to its former practical relations in the Union by the consent of the law-making power of the United States; and whereas, the people of said state did, on the twenty-second day of February, 1865, by a large popular vote, adopt and ratify a constitution of government, whereby slavery was abolished, and all ordinances and laws of secession, and debts contracted under the same, were declared void; and whereas, a state government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery; also the amendment proposed by the Thirty-ninth Congress, and has done other acts proclaiming and denoting loyalty."

The resolution was: "That the State of Tennessee is hereby restored

to her proper practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress."

President Johnson, in an elaborate protest which accompanied his signature of the joint resolution, stated his position, as follows: "Earnestly desiring to remove every cause of further delay, whether real or imaginary, on the part of Congress to the admission to seats of loyal Senators and Representatives from the State of Tennessee, I have, notwithstanding the anomalous character of this proceeding, affixed my signature to the resolution. My approval, however, is not to be construed as an acknowledgment of the right of Congress to pass laws preliminary to the admission of duly qualified Representatives from any of the states. Neither is it to be considered as committing me to all the statements made in the preamble, some of which are, in my opinion, without foundation in fact. If," he continued, "a state government can only be restored to its former practical relations in the Union by the consent of the law-making power of the United States, it would really seem to follow that the joint resolution which at this late day has received the sanction of Congress should have been passed, approved, and placed on the statute-books before any amendment of the Constitution was submitted to the legislature of Tennessee for its ratification. Otherwise the inference is plainly deducible that while, in the opinion of Congress, the people of a state may be too strongly disloyal to be entitled to representation, they may, nevertheless, during the suspension of their former proper practical relations to the Union, have an equally potent voice with other and loyal states in propositions to amend the Constitution, upon which so essentially depend the stability, prosperity, and very existence of the Union."

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No state of the South had less of the secession spirit before the commencement of hostilities, nor more of devotion to the Union, than North Carolina. In February, 1861, her people voted down the legislative proposition to hold a state convention to consider the question of secession. On the same day, however, delegates were elected to the proposed convention, of whom a large majority, chosen by nearly thirty thousand majority of the popular vote, were against secession. But the secessionists, who controlled the legislature, were not satisfied with this decision of the people. They passed another convention bill. This time they very shrewdly provided that the action of the convention should be valid without a ratification by the people. Still a majority of the delegates,—although chosen amid active preparations for war, the din of arms, and the threats and clamor of demagogues engaged in "preparing the hearts of the people for war,"—were against secession. They only yielded when the adjoining states adopted their disastrous ordinances. The anti-secession party in the state elected Zebulon B. Vance governor. They secured a majority in the legislature.—These anti-secessionists of the South were in a predicament not unlike that of those

Northern Democrats who were opposed to making war while compromise was possible. The Southern Unionists were swept along in the current against their will, until many of them came to sympathize in a cause for which their neighbors, friends, and relatives were fighting. But there was this difference in the situation. In the Northern states public opinion was not so intolerant but that, by holding his peace, a man might now and then go unquestioned, and attend to his usual vocation. In the South this was not the case. The achievement of independence was felt to be an enterprise which nothing short of the most desperate determination could carry. This consciousness, in conjunction with the intolerance of opposition, made it necessary for every man to "show his hand," and to show it on the side of secession and war.

Governor Vance was elected as an anti-secessionist, even after he had drawn his sword as a Confederate colonel. But during the progress of the war, his sympathies gradually became enlisted in the success of the cause which his official position required him to support. Before the close of the contest he was ranked among the foremost "war governors," for the energy and efficiency of his measures. But when further resistance was no longer possible, when Lee and Johnston surrendered, when Mr. Davis and his government abandoned Richmond, and when Governor Vance himself found it necessary to flee before Sherman's advancing army, he had the wisdom and the regard for the welfare of the people, to issue an earnest appeal in behalf of peace and order on April 28, 1865. This appeal, and the admirable general orders issued at the same time by Major-General Schofield, had no doubt a large share in the almost immediate restoration of peace and good order within the state. General Schofield was practically the military governor of North Carolina until May 29th. Then President Johnson superseded him by the appointment of Mr. Holden as provisional governor, to carry on the work of reconstruction. The provisional governor announced by proclamation, on June 12, 1865, his purpose to order an election of delegates to a convention, and to appoint justices of the peace to administer the oath of allegiance and hold the election. The convention was duly elected by the class of people who could run the gauntlet of President Johnson's stringent conditions. It met at Raleigh, the seat of government, on Oct. 2, 1865. It was composed of men who for the most part had opposed secession. They had never been in hearty sympathy with the attempts to overthrow the general government. But there was, perhaps, not one among them who came up to the Republican standard of loyalty. They were not only compromised by having given some sort of "aid, counsel, countenance, or encouragement" to the rebellion, but they were all opposed to the radical changes in the constitution and laws of the state which were required by the Republicans. They cheerfully complied with the demand for the repeal of the ordinance of secession. They con-

ceded the fact that slavery had been abolished by the President's proclamation and by the disastrous results of the rebellion. They accordingly made no objection to the adoption of an amendment to the Constitution forever excluding that institution from the state. They complied with the President's demand for the repudiation of the whole war debt, though not without some reluctance. The best "Union men" among them had lent money to the state, or to the counties, to equip and to provide comforts for their friends and neighbors, their sons and kindred, when they were about to march to the field. Nothing but the imperative demand of the President and Secretary Seward could have induced the convention to repudiate this class of claims. But the convention obeyed the unavoidable behest, and its work was ratified by the people.

The ordinance in regard to secession is remarkable for the decided and hearty manner in which it disposes of the subject. It reads as follows: "*Be it ordained by the delegates of the people of North Carolina, in convention assembled, and it is hereby declared and ordained:* That the ordinance of the Convention of the State of North Carolina, ratified on the 21st day of November, 1789, which adopted and ratified the Constitution of the United States, and also all acts and parts of acts of the General Assembly, ratifying and adopting amendments to the said Constitution, are now, and at all times since the adoption and ratification thereof have been in full force and effect, notwithstanding the supposed ordinance of the 20th of May, 1861, declaring the same to be repealed, rescinded and abrogated; and the said supposed ordinance is now, and at all times hath been null and void." This ordinance was unanimously adopted by the convention. It was ratified by the popular vote, together with the one prohibiting slavery. Slavery was abolished by another ordinance, without a preamble, such as was employed by the other state conventions, implying acquiescence in a necessity. It simply declared — "that slavery and involuntary servitude, otherwise than for crimes whereof the parties shall have been duly convicted, shall be, and is hereby forever prohibited within the state."

In the subsequent election, Provisional Governor Holden was defeated by Jonathan Worth; a result which greatly disappointed the President. The legislature chosen ratified the constitutional amendment proposed by Congress for the abolition of slavery throughout the Union, with only six dissenting votes. This and similar acts of ratification of the amendments to the Constitution by the seceded states, as conditions of restoration to their rights, were held by many to be invalid,—being performed under duress, as was alleged. Mr. Worth, who was elected governor under the newly formed constitution, received 32,529 votes to 25,809 cast for Governor Holden. Both candidates were regarded as Union men during the war. Mr. Worth was a Whig, of Quaker ancestry. He had never wavered in his allegiance to the Union, except so far as it became necessary to accept citi-

zenship under the *de facto* Confederate government. He was a man of rigid integrity, tenacious of his principles, and as little inclined to the Republican party, with its radical principles, as to the secession Democracy.

Governor Holden, prior to the war, was a Democratic editor and leader. He had taken strong ground in favor of the right of secession, and of the imperative duty of secession, on the part of the South, in the event of the election of an abolitionist to the Presidency. This was his position in 1856, when there seemed to be a possibility of the election of Fremont. But in 1859 he began to withdraw his support from the secessionists; and in 1861 he took a leading part with the conservatives, who were for the most part Whigs, against secession as the "rightful remedy" for Southern grievances. This change of position is attributed by his enemies to the fact that he was not nominated for governor. He was elected to the state convention in February, 1861, by the people of Wake County, along with the late Mr. Badger, as a Unionist. But as a member of the convention, Mr. Holden, like all others of similar views, succumbed to the overwhelming pressure of Southern opinion. Those were "times that tried men's souls." Among the Unionists of the South who then participated in public affairs, there was not one who did not yield a passive or active obedience to the inflexible will of the ruling class. There seems to have been no alternative for a man of earnest convictions of duty and high resolves and purposes, but to get out from among them, or to become a martyr. Mr. Holden, as an old and practiced politician, yielded, and yielded gracefully. He voted for the ordinance of secession, and not without the manifestation of a cordial sympathy with the cause. His declaration that he would leave the pen with which he affixed his signature to the fatal paper as an heir-loom to his posterity was doubtless inspired by the desire to regain the confidence of his former friends and associates. His pledge of "the last dollar and the last man" in the state to the cause was probably given in the same policy. But if such was his expectation, it utterly failed him. The breach, so far from closing up, grew wider. Mr. Holden gradually drifted into the ranks of the disaffected and despairing subjects of the Confederacy. His newspaper, the *Standard*, became their organ. In his capacity of editor of a newspaper which was not in sympathy with the cause, he came to be regarded as a public enemy of secession. He was subjected to galling insult and persecution. There can be no doubt of the sincerity of the joy with which he hailed the overthrow of the Confederacy and the restoration of the Union. It was to his career as a successful Democratic editor and party leader that he owed his appointment by President Johnson. The latter, a native of Raleigh, and thoroughly conversant with North Carolina politics, was in full sympathy with Mr. Holden in his hatred of the secession leaders, and in his distrust of the Whigs. Each had risen from poverty to eminence and influence; and each had relied on the support of the masses,

rather than on the favor of the wealthy and aristocratic leaders of the Democracy. Their support, in former years, of these leaders had been regarded as highly conducive, if not essential, to the success of the party in the two states to which they belonged, but they were never favorites with the aristocracy.

It was with such antecedents that Mr. Holden was appointed provisional governor of North Carolina. The work of reconstruction would have tasked the resources of any man. He was expected to reconcile a high-spirited and defeated people to the great revolution in the social order which followed from the overthrow of secession. He had to preserve the peace between the white and colored races under their changed conditions; and to enforce equal laws between men who, up to that time, had stood to each other in the relation of master and slave. To accomplish these ends the governor should have possessed, or have set about acquiring, the confidence and esteem of the best portion of society. He should have endeavored to draw to his support every man whose character and whose interests in society were guarantees and pledges of a desire to see peace and order restored. This Governor Holden failed to do. His solicitude seemed to be, to form a party devoted to President Johnson and himself, rather than to reform society by giving his confidence to men who could be relied on to stand by the laws, and by the renewed pledges of fidelity to the Union. It was impossible for any one to imagine, for instance, that Governor Graham would be false to his oath of allegiance, that he would become the leader of a guerrilla band, or that he would in any way give countenance to any desperate or unlawful enterprise. The same might be said of the great body of the property-holders in the state, and of the people at large. But the former were disfranchised. Mr. Johnson's "policy" put every man who was deemed to be worth twenty thousand dollars under the ban, and left it to the discretion of Mr. Holden to say how long they should remain under it. The execution of this "policy" was called by Mr. Stevens, of Pennsylvania, "peddling amnesty." There was never a suspicion that the business was attended by pecuniary corruption; but that amnesty was withheld, and granted, from mere party considerations, is a proposition too plain to be controverted. Many who had been active secessionists were promptly pardoned; while many others who had reluctantly acquiesced in secession were refused pardon. This policy failed, of course, to win over the better part of the people. It was pursued ever after by the Republican administrations, but it never succeeded in any one state. If the contrary policy had been adopted, of calling on all law-abiding citizens of the South to stand by the government — not by the party in power — in the preservation of peace and the enforcement of the laws; and if the best and highest characters in the South — not the violent, or extreme men, but the wise, discreet, substantial men —

had been called on to assist in the work of reconstruction, the best results would have followed. This, to some extent, was the policy of Mr. Lincoln.

Under the amended state constitution an act was passed in March, 1866, "concerning negroes and persons of color, or of mixed blood." It declared that negroes and their issue, even where one ancestor in each preceding generation to the fourth inclusive was white, should be deemed persons of color. This was the *ante-bellum* definition of persons of mixed blood. It is still the law, and may be brought into requisition with reference to prohibited marriages. The same statute gave to negroes all the rights of white persons before the courts, in prosecuting and defending suits. It made them competent witnesses in all cases of law or equity in which persons of color were concerned. Their exclusion from the witness-box in cases involving the rights of white persons only, was unwise. It was not in the interest of justice; but it cannot be regarded an oppressive regulation for the colored race. Under the law of slavery in this state and throughout the South, the marriage relation between slaves was not recognized. It might be broken by either party, or by the masters. This barbarism was removed. The laws relating to marriage were made applicable to the colored population; and where a man and woman, lately slaves, had lived together as man and wife, they were to be deemed lawfully married from the commencement of their cohabitation. They were required to go before the clerk of the county court and acknowledge the cohabitation. Of this a record was to be made, which was to be *prima facie* evidence of marriage.

On May 24, 1866, the convention of the preceding year met pursuant to adjournment. It made amendments that were found to be necessary in order to induce the military commander to relax his hold upon the state and people, and allow the laws to be enforced by the civil officers. The governor in a message stated that General Robinson, then in charge of the Freedmen's Bureau, was desirous of turning over to the jurisdiction of the state courts all cases relating to the freedmen, but that he could not do so in consequence of certain provisions of the recent act of the legislature in regard to negroes. This act restricted negro testimony, and it inflicted on a negro, and on a white man, different penalties for the same crime. This discrimination between the races was at once removed by the convention. The general thereupon turned over the enforcement of the laws to the civil courts. Other changes were made; but the whole constitution being submitted to the people for ratification, it was voted down, though by a vote of less than two thousand in above forty-one thousand. Governor Worth was re-elected in August by a large majority of the small vote given. He was superseded in the early part of 1867, under the Reconstruction acts, by Gen. Daniel E. Sickles, the military commander of the district. Thus North Carolina continued to be a "conquered province."

CHAPTER XXII.

TEMPORARY ORGANIZATIONS OF THE SOUTHERN STATES.

MISSISSIPPI AND HER GOVERNORS—JUDGE SHARKEY—PRESIDENT JOHNSON'S TERSE ORDER—LEGISLATION IN DETAIL—GEORGIA RECONSTRUCTED—HER TERRIBLE CONDITION IN 1865—ACTION OF HER PEOPLE—TEXAS RECONSTRUCTED—GOVERNOR HAMILTON AND HIS PROCLAMATIONS—ALABAMA—VANDALISM THERE—GOVERNOR PARSONS' DESCRIPTION OF IT—HIS SERVICES—ALABAMA CONVENTION.—QUARREL OVER THE EPISCOPAL PRAYERS—MEDDLESOME MILITARY ORDER—SOUTH CAROLINA—BRECKENRIDGE ON THE SOUTH CAROLINA CHIVALRY—GOVERNORS MAGRATH, PERRY, AND ORR—OBSTACLES OVERCOME.

GENERAL CLARK was the governor of Mississippi when the Confederate armies surrendered. He called an extra session of the legislature, to meet on the 18th of May, 1865; but General Canby, by direction of the President, forbade the meeting of that body. On June 13, Judge William A. Sharkey was appointed provisional governor by the President, with powers like those conferred upon Governor Holden, of North Carolina. A convention was then called by Governor Sharkey, the members to be elected on August 7, and the voters to have the same qualifications as those prescribed in the North Carolina proclamation.

Judge Sharkey was a lawyer who had a thoroughly professional mind. He could drive a legal proposition through every impediment. It may not do to liken him to Chief Justice Marshall, who gave such logical decisions that they required no precedent to support them. For eighteen years he presided as chief justice of the High Court of Errors and Appeals in Mississippi. In that domain he had no peer in his state. He was a Tennessee man, born on the River Holston, just before the incoming of the present century. His maternal grandfather was a German belonging to the Rhine. His father was an Irishman whose name was Patrick Sharkey. This combination presaged very much to the credit of the chancellor who became so famous, and who played such an important part during the war. When a boy of fifteen, young Sharkey entered the army of General Jackson. He was a substitute

for an uncle. He was at the battle of New Orleans, and witnessed the overthrow of the British on the Plains of Chalmette. His military fame was won on the 8th of January, 1815. After that adventure he returned to Tennessee. There, at a school of some note in Greenville, he learned more or less of the English branches of education, and he afterwards read law with Dr. Hill, of Lebanon, Tennessee. After that he went to Mississippi, where his ability, integrity, and genius for the law gave him a large practice. In 1827, he was sent to the legislature. He was an eminent judge as early as 1832. No man who ever sat upon the bench of the High Court of Errors and Appeals in Mississippi settled more questions or made more authoritative precedents than Judge Sharkey. His work in the Mississippi state reports is a monument to his legal fame. He had an immense treasure of common sense. He never failed in minute detail. He never failed on a legal principle. When he left the bench in 1850 it was to rescue his little fortune. President Fillmore tendered him the position of Secretary of War, which he declined. He preferred to devote his talent and thought to the Constitution. Years afterwards, when the dire work of civil war had ended, he became one of the heroes of reconstruction. As stated, President Johnson made him provisional governor of Mississippi. It was a difficult, delicate, and most ungrateful office; yet all parties were satisfied with his administration. At the first election under the new system he was chosen Senator from his state. But the reconstruction policy of the President having been abrogated, he was, with other Southern members, refused a seat. It would have been better, perhaps, if he had been elected governor. He returned to Mississippi and continued to practice his profession. The writer remembers him well as a man of kind, polished manner, with a rare fund of conversation, as brilliant as it was attractive. He was a man who looked to the unseen world. He was a strict Methodist, in which communion he died, but he was worthy to be called, as Wendell Phillips once said of Samuel Adams, "one of Plutarch's men." His name is all over, and all through, and all under the jurisprudence of his state. No one lives so gloriously in the annals of Mississippi as Judge William L. Sharkey.

It is said of Judge Sharkey by men of his own state who took part in its resurrection, that he was not successful in the office of governor; that he did not materially assist in restoring its statehood or its prosperity. Their criticism is, that he was a specimen of that class of wonderful men who make great judges, jurists, and chancellors, but are utter failures in that field of politics in which motives must be divined at each stage of human vicissitude and progress. However this may be, it must be said that he had little opportunity to show much administrative ability as governor.

His successor, Governor Humphreys, accomplished nothing. He could not have done any good for the state, with such a legislature as came into power with him. His recommendations to that body might have suited the

temper of the people of the state, but it is not improbable that Judge Sharkey's recommendations would have better impressed them with the importance of liberal action towards the freedmen. Judge Sharkey had visited Washington, and had there met the leaders of both parties. He knew the vital necessity of temperate action in the South.

The convention called by Provisional Governor Sharkey met at the city of Jackson on the 14th of August, 1865. The next day the governor received a dispatch from President Johnson, of which the following is a copy:

"I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your state constitution, abolishing slavery, and denying to all future legislatures the power to legislate that there is property in man; also that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English, and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary, and set an example the other states will follow. This you can do with perfect safety, and you thus place the Southern States, in reference to free persons of color, upon the same basis with the free states. I hope and trust your convention will do this, and, as a consequence, the radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the Southern States from renewing their relations to the Union by not accepting their Senators and Representatives. ANDREW JOHNSON."

This was excellent advice. It would have been much better for the people of Mississippi and of the South had it been followed. It would have left no pretext for denying the state her Federal rights. The Mississippians did not credit the President with good intentions. They were not in a mood to receive advice from him. They were familiar with his career during the war, and immediately following its close. To them he seemed to be inspired with all the bitter antagonism to the South which animated the Northern radicals. His recommendation was regarded as the essence of radical policy. Had not President Lincoln, in the early part of the preceding year, March 13, 1864, addressed a letter similar in purpose to Provisional Governor Hahn, of Louisiana? No; Mississippi was not yet prepared to accept such advice. Mr. Lincoln's letter is brief. It is worthy of a place in this connection:

"MY DEAR SIR: I congratulate you on having fixed your name in history as the first free state governor of Louisiana. Now you are about to have a convention, which, among other things, will define the elective franchise, I barely suggest, for your private consideration, whether some of the colored people may not be let in — as, for instance, the very intelligent, and

especially those who have fought gallantly in our ranks. They would probably help, in some trying time to come, to keep the jewel of liberty in the family of freedom. But this is only a suggestion, not to the public, but to you alone. Yours truly, A. LINCOLN."

But the Mississippi convention was not alone in its objection to negro suffrage. Even the Republicans of the North were slow to adopt such a policy for their own states. Nevertheless, the convention did some notable work. It did enough to disarm even the radicals, if the latter had not been determined to make the South the stronghold of their party. The convention passed ordinances for the amendment of the state constitution:

First. Declaring null and void the ordinance of secession, passed in state convention on Jan. 9, 1861.

Second. Declaring that, slavery having been destroyed, neither slavery nor involuntary servitude, otherwise than in the punishment of crimes whereof the party should have been duly convicted, should thereafter exist in the state. This ordinance further provided that the legislature at its next session, and thereafter as the public welfare might require, should provide by law for the protection and security of the freedmen and their property, and guard them and the state from any evils that might arise from their sudden emancipation.

An amendment to the twelfth section of the State Declaration of Rights contained a germ of evil consequences to the state. It had much to do with defeating President Johnson's beneficent plans for reconstruction. That section provided — "That no person shall, for any indictable offense, be proceeded against criminally by information; except in cases arising in the land and naval forces, or in the militia when in actual service, or, by leave of the court, for misdemeanor in office." The amendment provided — "That the legislature, in cases of petit larceny, assault, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court as may be established by the legislature; and the proceedings in such cases shall be regulated by law."

The ordinances were adopted, and an election was held on Oct. 9, 1865, for governor and other state officers, congressmen, and members of the state legislature. The legislature elected under the new constitution met on October 16th, of the same year. Benjamin G. Humphreys, a prominent gentleman of the state, was elected governor. He recommended, in his message, that the negroes be placed on the footing of white men as to the right of suing and being sued, and of giving testimony; that the negroes be encouraged to engage in the pursuits of industry; and that the militia laws be revised so as to protect the people "against insurrection, or any possible combination of vicious white men with negroes."

This legislature refused to ratify the Thirteenth Amendment to the United States Constitution, abolishing slavery. The members legislated with a view to recognize as little as possible any of the results of the war. As an evidence of gratitude toward those who had fought for Southern independence, they appropriated twenty per centum of the state revenues "for the relief of the destitute and disabled Confederate States soldiers." The old United States pensioners who had fought for the Confederacy were exempted from payment of state taxes. There was nothing objectionable in these liberal provisions in a state where all the tax-payers had been to some extent in sympathy with secession. They were, however, construed in Congress, with other provisions passed by that body, as giving evidence that the people were not fit to conduct their own state government.

Pursuant to the spirit of the governor's recommendation, and to the spirit of the people also, the legislature passed, on November 22d—"An Act to regulate the relation of master and apprentice." This act related exclusively to the colored race. It required sheriffs, justices of the peace, and other civil officers to report to the probate courts of the several counties, semi-annually, "all freedmen, free negroes, and mulattoes, under the age of eighteen," who were orphans, or whose parents had abandoned or failed to provide for them. The courts were required to bind as apprentices all such persons, on such terms as the judge might direct, "having a particular care to the interest of said minors." It was provided that the minors should be bound to their former owners, when, in the opinion of the court, the latter were persons suitable for that purpose. The court was enjoined to have a particular care of the interests of such minors. The males were to be bound until they were twenty-one years old, and the females until their eighteenth year. The usual authority for the moderate chastisement of apprentices was given, and for their recovery if they should run away.

A vagrant act was passed on November 24th. It provided that all freedmen, free negroes, and mulattoes, over the age of eighteen years, who, on or after the second Monday in January, 1866, might be found without lawful employment or business, or unlawfully assembling themselves, either in the day or night time, and all white persons so assembling, or usually associating with them on terms of equality, or living in adultery or fornication with a freed-woman, free negro, or mulatto, should be deemed vagrants, and on conviction thereof be fined in a sum not exceeding, in the case of a freedman, free negro, or mulatto, fifty dollars, and of a white man, two hundred dollars, and be imprisoned at the discretion of the court, the free negro not exceeding ten days, and the white man not exceeding six months. Jurisdiction was conferred on all justices of the peace, mayors, and aldermen, to try offenders against the act without a jury, and to sentence them. Sheriffs and constables were punishable for neglecting to report

such cases. If the convicted parties failed to pay the fine within five days after its imposition, they were to be hired out for a sum equal thereto, the proceeds to be paid into the county treasury. By another act a poll tax, not to exceed one dollar, was imposed on every freedman, free negro, and mulatto, between the ages of eighteen and sixty, for the support of the poor. Failure to pay this tax was made *prima facie* evidence of vagrancy, and the party was to be dealt with accordingly.

An act to confer civil rights on the colored people was passed on Nov. 25, 1865. It gave them the right to sue and be sued, plead and be impleaded, in all the courts of law and equity in the state; and to intermarry with each other, but not with white people. Power was given them to acquire and hold personal property, and to dispose of it in the same manner as white people. But it was expressly provided that no colored person should be allowed to rent or lease any lands or tenements, except in incorporated towns or cities; and in the latter places the corporate authorities were to control this privilege. The right to testify in the courts was granted to the colored people, but only in civil and criminal cases, where any of them should be parties, as plaintiffs or defendants. On and after the second Monday in January of each year, every colored person was required to have a written certificate from a city or county officer, showing that he had a home and employment. If a laborer should quit the service of his employer before the expiration of his contract, without good cause, he was to forfeit his wages for the time he had served. He was subject to be arrested by any civil officer, or other person, and brought back to his employer. The officer or other person making the arrest was to be entitled to a fee of five dollars, and ten cents per mile from the place of arrest to the place of delivery. This was to be paid by the employer, and held as a set-off against the wages of the deserter. The laborer was allowed the right of complaint before a justice of the peace, or member of the board of police. These officers were authorized to try and determine the case. Any justice of the peace, on affidavit made by the employer of a colored laborer alleging that such laborer had "illegally deserted," was required to issue a warrant for the arrest of the offender. The warrant, in such case, was to be recognized as valid in any county in the state. This so-called civil rights act made it a penal offense, punishable by a fine not exceeding two hundred dollars, to entice away a hired freedman from his employer.

By another act, passed on November 29th, the colored people were forbidden to keep or carry fire-arms, or any ammunition, or knife. This act also applied to them in full force all the penal and criminal laws "defining offenses and prescribing the mode of punishment for crimes and misdemeanors committed by slaves, free negroes, and mulattoes," except so far as the mode and manner of trial and punishment had been changed or altered by law. This last mentioned provision was the climax of legislative folly.

It defeated wholly the legitimate effect of the ordinance abolishing slavery. In effect it was a re-enactment of the old slave code.

It is manifest that this legislation was conceived exclusively in the interest of the planters, with only such reference (deference there was none) to the rights and welfare of the colored people of the state as was thought necessary to satisfy the demands of Northern opinion and the new national guarantees of freedom. Assuredly the legislature that enacted these laws must have been ignorant of the change of sentiment in the North. It is surprising that the intelligent men of Mississippi could have persuaded themselves, after the terrible experiences through which they had passed, that the triumphant North, now thoroughly imbued with the anti-slavery sentiment, would for a moment tolerate this new slave code. Such legislation was far removed from the temporary guardianship of the freedmen which Mr. Lincoln thought would be necessary to prevent idleness, vagrancy, and disorder. What he suggested was calculated to promote the welfare and the improvement of the freedmen, as well as the peace and prosperity of their former masters. Mr. Johnson was aiming, doubtless, to follow in the footsteps of his predecessor in this regard, as far as the change of Northern feeling would permit him. It was owing to this sort of legislation in the Southern States that Mr. Johnson's policy of conciliation was defeated. It gave plausible reasons for the despotic military rule devised by Thaddeus Stevens and his partisans. It was cited as proof to the Northern people that there was no sincere purpose on the part of the South to acquiesce in the freedom of the former slaves. It caused the doubting and hesitating Republicans to overcome their constitutional views, and to decide for immediate negro suffrage as a political necessity.

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The protracted struggles between the armies of the Union and the Confederacy in northern Georgia, from Chattanooga to Atlanta, followed by General Sherman's "march to the sea," left a scene of wide-spread desolation. The correspondents of the day gave graphic descriptions of the destitution and suffering of all classes of the people of Georgia. These descriptions present a picture shocking to contemplate; and yet, in view of the wholesale destruction of property, the consumption and waste of great armies, and the disruption of social order by which regular labor was rendered impossible, there can be no doubt that these pictures were true to the life. One instance of the prevailing destitution is here given: "Thomas H. Moore, of respectable and even cultured address, introduced himself as the agent for the county, appointed by the state, for the distribution of the supplies voted by the rebel legislature to the people of northern Georgia, after Sherman's passage. He said all these supplies had been long ago issued. He had himself, since, walked to Atlanta (having no horse), to procure more. A few hundred pounds of provisions had been furnished, which he

was now distributing, but these amounted to a mere pittance, and he was obliged to reserve them for those who were already on the verge of starvation. Women daily — nay, hourly, came in from a distance of ten and fifteen miles, to get a few mouthfuls to save the lives of their helpless children.

"After him came slave-holders, the wealthiest in the county — one with sixty slaves, who complained that what had once made them the richest, now made them the poorest. They had nothing to feed these people, without whose aid the crops could not be secured. Mr. ——— had told his negroes that if they would remain with him, now that they were free, he would compensate them, and share with them his land, and they were anxious to do so; but — and he called me aside to tell me this privately — the distributing officers refused to furnish food to the slave-holders, who, unless they could get aid, would, together with the negroes, starve. They told me that no man in the county had more than two bushels of corn left. . . . The commandant has mentioned a case that occurred yesterday. A poor woman came all the way into town on foot, from a distance of twenty miles, leaving at home a family of children who had had nothing to eat for twenty-four hours."

Another press correspondent said: "From a recent report made by order of the military authorities, it is ascertained that there are 35,000 men, women, and children in the counties of Georgia immediately surrounding Atlanta, who are dependent upon the United States Government for support and preservation from death by hunger. In the counties north of Georgia there must be at least as many more, for at every post and headquarters of the United States forces hundreds of applicants apply daily for relief. To such an extent does this state of affairs prevail, that it seriously incommodes the troops, and although every effort has been made to relieve the sufferings of the people, yet vast destitution prevails among them. An order has recently been issued by General Thomas, directing that several thousand bushels of corn be distributed among these poor people, which will prove of great benefit. Still, the evil increases day by day, by the arrival of hundreds of poor refugees from points north of here, especially from Indiana."

An ex-Confederate soldier, after stating the vast amount of food issued to the starving people, said: "But before I close I cannot help but remark that it must be a matter of gratitude, as well as surprise, for our people to see a government which was lately fighting us with fire, and sword, and shell, now generously feeding our poor and distressed. In the immense crowds which throng the distributing-house, I notice the mothers, and fathers, and widows, and orphans of our soldiers who fought nobly — and how sadly, too often to the death, for our loved South. Again the Confederate soldier, with one leg or one arm, the crippled, maimed, and broken, and the worn and destitute men who fought bravely their enemies then, their benefactors now, have their sacks filled and are fed."

This was the sad condition of Georgia on May 3, 1865, when Gov. Joseph E. Brown issued a proclamation calling an extra session of the legislature, to convene on the 22d of the month. By direction of President Johnson, Major-General Gilmore issued an order annulling this proclamation, and forbidding the members to assemble. The language used was needlessly harsh and offensive to a fallen foe, who, at that time could have had no purpose of renewing hostilities, and whose object, no doubt, was the preservation of order, and the preparation of the public mind for the inevitable results of the unsuccessful cause. It is due to Governor Brown to say that he promptly acquiesced in the necessity of an unconditional surrender. Although thrown out of office, he issued an address to the people, urging them to accept the fate thrust upon them by the fortunes of war, and to give their support, not only to the government of the United States, but also to the administration of President Johnson. He advised them to take the amnesty oath, to return to the Union in good faith, to exert themselves for the relief of the distressed, the repair of the ravages of war, and the restoration of peace and order under the old flag, to which all must again look for protection, from the Atlantic to the Pacific.

On the 17th of June, the President appointed James Johnson provisional governor of Georgia, with like powers and duties to those prescribed for the provisional governor of North Carolina. These have been fully set forth on preceding pages. Governor Johnson at once called on the people to elect delegates to a state convention on the first Wednesday in October. The convention was to assemble on the fourth Wednesday of that month. The electors and delegates were to have the same qualifications prescribed for those of North Carolina. Governor Johnson set forth the real state of affairs in terms showing his strong attachment to the Union.

Men of talent came forward as candidates for the convention. The people showed themselves ready and anxious for peace and restoration to the Union. They had felt the ravages and turmoil of the war. Their industries and trade had been disorganized. The railroads were dilapidated or destroyed. Eighteen millions had been added to the public debt of the state. That addition, however, was easily disposed of, as there was an imperative necessity pressing on the convention for its repudiation. The convention met on the 25th of October, and the next day proceeded to transact the important business for which it had been called. First in order was the adoption of an ordinance for the repeal of the secession and other ordinances which had been passed in 1861 to separate the state from the Union. This was done five days afterwards. The people of Georgia, by their delegates to this convention, declared null and void the ordinance adopted in convention on Jan. 19, 1861, to dissolve the Union between the State of Georgia and other states, together with an ordinance adopted on the 15th of March, 1861, to adopt and ratify the constitution of the Confederate States of

America, and all ordinances and resolutions adopted between the 16th of January and the 24th of March of that year, which were subversive of or antagonistic to the civil and military authority of the government of the United States of America under the Constitution, and they were then and there repealed.

The next act of the convention was to declare slavery abolished. This was done by ordinance, declaring that "The Government of the United States having, as a war measure, proclaimed all slaves held or owned in the state, emancipated from slavery, and having carried that proclamation into full practical effect; therefore, there shall henceforth be, within the state of Georgia, neither slavery nor involuntary servitude, save as a punishment of crime, after legal conviction thereof." It was provided that this acquiescence in the action of the government of the United States was not intended to act as a relinquishment, or waiver, or estoppel of such claim for compensation for loss sustained by reason of the emancipation of his slaves, as any citizen of Georgia might thereafter make upon the justice and magnanimity of that government. This saving provision was inserted in the ordinance. It was a natural, but vain effort to save something out of the general wreck. After a good deal of hesitation, and some strong urging by the President and Secretary Seward, the convention, on the 7th of November, declared the state debt incurred in aid of the rebellion null and void. The vote stood: yeas, 133; nays, 117. The convention then adjourned. The legislature, which met on the 4th of December following, ratified the Thirteenth Amendment to the Constitution of the United States. This legislature made some provision for the indigent Confederate and state soldiers, and for the widows and children of those who had died in the service. Negroes were made competent witnesses in all cases in which any of the race were parties. Intermarriage between the races was prohibited. It was made a misdemeanor for a clerk of court to issue a license for such a marriage, or for a minister of religion or civil officer to perform the marriage ceremony between a white and a colored person. A vagrant act was passed, the provisions of which, unlike the re-enacted slave-code of Mississippi, applied equally to white and colored persons. An act regulating the relations of master and servant was also passed, which made no discriminations as to color.

These proceedings of the Georgia convention and legislature contrast favorably with those of other states on the southern border. The more liberal action of Georgia was doubtless due to the greater commercial and manufacturing enterprise and ambition of her people. In those parts of the South where agriculture was the only important interest, and slaves the only laborers, there was ever the least liberality and the severest discipline over the servile class. The provisional governor of Georgia had the wisdom to bring to his aid, as far as it was in his power, the best talent in the state, without regard to the former party connections of individuals. Yet Georgia fared little better than her sister states in the work of reconstruction.

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The great distance of Texas from the seat of the general government, and the sparseness of the population diffused over her vast territory, will account for the disorder which prevailed in that state for some months after the close of the war. The governor showed a laudable purpose of restoring order, and of bringing about a restoration of the state to her place in the Union. To these ends, he summoned the members of the legislature to meet on the 16th of July, 1865. At the same time he ordered an election of delegates to a state convention, to be held on the 19th of June, in the hope of getting rid of military rule. But in this he failed.

On the 17th of June, President Johnson appointed Gen. Andrew J. Hamilton provisional governor. General Hamilton was a Texan by long residence. He had filled many important stations. His appointment superseded the spontaneous efforts at reconstruction which had been instituted by his predecessor, Governor Murrah. The new governor had been opposed to secession. He had been obliged to flee the state. He returned to Texas in the latter part of July, with other refugees. He issued a proclamation on the 25th of that month, announcing the powers that had been conferred on him, and that a state convention would be called to remodel the constitution. He did not take immediate steps to make the call. The election was not held until the 8th of January, 1866. By a preceding proclamation, the qualifications of delegates and electors had been stated. They were the same as those prescribed for North Carolina. In the meantime, between the assumption of authority by the provisional governor and the institution of the new popular government, justice was administered by judges, magistrates, and officers temporarily commissioned for that purpose. In his first proclamation, Governor Hamilton invited and exhorted the people to engage in the work of reconstructing local government for themselves. He assured them that the United States Government had no purpose to humiliate the people of the South. At the same time he said to them: "The negroes are not only free, but I beg to assure my fellow-citizens that the government will protect them in their freedom."

The following extract from the proclamation illustrates at once the good spirit which animated the governor, and the unconquered spirit of masterdom with which he had to contend: "For the time being, the freedmen are recommended to engage with their former masters for reasonable compensation, to labor at least till the close of the season for gathering the present crop. For them, generally, to do otherwise would be greatly to the injury of themselves and the community at large. But let it be understood that combination among those interested in securing their labor to prevent them from hiring to persons who will pay the best price for such labor, and to ostracize in society those who oppose such combinations, will meet with no favor at the hands of the people, or the government of the United States. And candor compels me to say to the people of Texas, that if, in the action

of the proposed convention, the negro is characterized or treated as less than a free man, our Senators and Representatives will seek in vain admission to the halls of Congress. It is indeed strange that men should take a solemn oath to faithfully abide by and support all laws and proclamations which have been made during the existing rebellion, with reference to the emancipation of slaves, and in the next breath favor gradual emancipation. It is the part of wisdom and the part of duty to accept what is inevitable without resistance."

Three days after Governor Hamilton issued his proclamation, Major-General Granger, commanding the District of Texas, issued an order from his provost-marshal's office at Galveston, earnestly enjoining all freedmen to remain with their former masters, under such labor contracts as would be made, until more permanent arrangements could be made by the Freedmen's Bureau. The order gave notice that cruel treatment, or improper use of the authority given to employers, would not be permitted. At the same time both parties to contracts would be held equally bound to fulfill their conditions. There was a great disposition among the freedmen to abandon labor; therefore the order said that—"No persons, formerly slaves, will be permitted to travel on the public thoroughfares without passes or permits from their employers, or to congregate in buildings or camps, at or adjacent to any military post or town. They will not be subsisted in idleness, or in any way except as employés of the government, or in cases of extreme destitution or sickness; and in such cases the officer authorized to order the issues shall be the judge as to the justice of the claim for such subsistence." This was done in order to encourage a disposition to work among the enfranchised class. Beside this object, the interest of the commonwealth imperatively demanded it, in order that the growing crop might be secured. No person, white or black, who was able to labor, was to be subsisted by the government in idleness. The provost-marshals and their assistants throughout the district were charged to use every means in their power to carry out these instructions in their letter and spirit. Yet, in spite of these rigorous military measures, the freedmen could not be kept in the fields. It is estimated that in Texas alone, where there was a fine crop, there was a loss of forty thousand bales of cotton, simply for the want of laborers to pick it out. This waste occurred at a time when cotton was worth sixty cents a pound.

The convention called by Governor Hamilton met on the 10th of February, 1866. It adopted an ordinance repealing the secession ordinance, and declaring it null and void. The state debt incurred in aid of the rebellion, and all responsibility for the Confederate States debts, were repudiated.

The eighth article of the constitution of Texas, adopted in 1845, prohibited emancipation without the consent of the owners. It required compensation to be made to them. It denied to the legislature the right to pass

laws prohibiting the importation of slaves from the other states of the American Union. The convention of February, 1866, threw out this provision and substituted an ordinance declaring:—that African slavery, as it had heretofore existed, having been terminated within the state by the government of the United States by force of arms, and its re-establishment being prohibited by the amendment to the Constitution of the United States; therefore, neither slavery nor involuntary servitude, except as a punishment for crime whereof the party should have been duly convicted, should exist in the state. It also declared that Africans and their descendants should be protected in their rights of person and property by appropriate legislation; they should have the right to contract and be contracted with; to sue and be sued; to acquire, hold, and transmit property; and all criminal prosecutions against them should be conducted in the same manner as prosecutions for like offenses against the white race, and they should be subject to like penalties. Neither Africans nor their descendants should be prohibited, on account of their color or race, from testifying orally as witnesses, in any case, civil or criminal, involving the right of, or injury to, or crime against any of them in person or property. They were to have the same rules of evidence that were applicable to the white race. The credibility of their testimony was to be determined by the court or jury hearing the same; and the legislature was given power to authorize them to testify as witnesses in all other cases, under such regulations as might be prescribed, as to facts thereafter occurring. An act was passed by the same legislature regulating the relations of master and apprentice. It made no discrimination on account of race or color. Minors, with or without the consent of parents, were to be bound out if found wandering about without a regular home or employment. A lien on crops was also given to creditors who advanced the means of producing them. All contracts for labor exceeding one month in duration were required to be in writing, and witnessed by a justice of the peace or notary public. A stay law was passed extending the time for issuing execution for one, two, three, and four years, on the first, second, third, and fourth quarters of the debt.

More than one-third of the members of the convention were in favor of a system based on a broader foundation than that of the white race exclusively, but they were voted down, by a vote of 47 to 26. Several members were in favor of giving qualified suffrage to negroes who could read and write.

State officers were elected under the new constitution on June 4th, following, and the constitution was ratified on the same day. The vote was small, only 48,519, of which there was a majority of 7,719 in favor of ratification. The total vote for governor was 60,682, of which Mr. Throckmorton, the "Conservative Union" candidate received 48,631, and the Republican, Mr. Pease, received 12,051. In the legislature elected at the same time, the Republicans had two of the thirty-three members in the senate, and in the

house of representatives, five of the ninety members. The provisional governor and his officers were then instructed by the President to turn over the control of affairs to the officials chosen by the people. The new administration was immediately inaugurated, and the instruction was complied with.

During the session of the convention a resolution was reported in regard to the Thirteenth Amendment to the Constitution of the United States, by a committee appointed to consider the proposal, for its ratification. The report was to the effect that, "The people of Texas, in convention assembled, have already by their ordinance acknowledged the supremacy of the Constitution of the United States, in which Constitution the above named article thirteen is embraced as part of the same; the courts of law so hold and administer. The legislature has no authority in this matter; any action on the same would be surplusage, if not intrusive. The committee, therefore, ask to be excused from the further consideration of the same; and they therewith respectfully return the communication of the Honorable the Secretary of the United States." This was a plausible avoidance of a disagreeable duty. The legislature of a state has certainly authority to act on the ratification of an amendment to the Constitution of the United States. The idea was shrewdly thrown out that such action would be "surplusage, if not intrusive," on the ground that the Thirteenth Amendment might be considered ratified when the convention, the year previous, repealed the secession ordinance, and repledged the faith of the state to the Union. This did not satisfy Congress, hence military supervision remained.

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The wretched condition of the people of Alabama at the close of the war was described by Lewis E. Parsons, the provisional governor, in a lecture delivered in New-York, in the year 1865. He said that while public attention in the North was turned mainly to the operations around Richmond, and to those which attended the movements of the vast armies of General Sherman, it also happened that Gen. James H. Wilson, of Illinois, with a large force of cavalry, some seventeen thousand, commenced a movement from the Tennessee River, and a point in the northwest of the State of Alabama, diagonally across the state. His troops penetrated to the centre and then radiated from Selma in every direction, through one of the most productive regions of the South.

That little city of Selma had about ten thousand inhabitants. Its defenses were carried by assault on one of the first Sunday evenings in April, the sun being about an hour high. Before another sun rose, every house in the city was sacked, except two. Every woman was robbed of her watch, her earrings, her finger-rings, her jewelry of all descriptions; and the whole city was given up, for the time, to the possession of the soldiers. It was a severe discipline to the people. It was thought necessary by the commanding general, to subdue the spirit of rebellion. For one week the forces under Gen-

eral Wilson occupied the little town. Night after night and day after day, one public building after another, the arsenal and then the foundry, each of which covered eight or nine acres of ground and was conducted upon a scale commensurate with the demand for military supplies that the war created, the railroad depots and machine-shops connected with them, and everything of that description which had been in any degree subservient to the cause of the rebellion were laid in ashes. Of the brick stores in the city, more than sixty in number, forty-nine were consumed.

"Indeed," said Governor Parsons, "after three weeks had elapsed, it was with difficulty you could travel the road from Plantersville to that city, so offensive was the atmosphere, in consequence of decaying horses and mules that lay along the road-side. Every description of ruin, except the interred dead of the human family, met the eye. I witnessed it myself. The fact is, that no description can equal the reality. When the Federal forces left the little town, which is built on a bluff on the Alabama River, they crossed at night on a pontoon bridge, and their way was lighted by burning warehouses standing on the shore."

Nothing can be said in extenuation of this brutal vandalism, which was ten-fold in degree worse than the burning of the public buildings and half a dozen private houses in Washington by Ross and Cockburn, in 1814; a deed which tarnished the honor of the British army and navy.

On June 21, 1865, President Johnson appointed the gentleman who gave this account, Lewis E. Parsons, provisional governor of Alabama. On the 20th of July following, the governor, by proclamation, ordered an election for a state convention, to revise the constitution. In his proclamation he told some unwelcome truths to the people. He informed them that of the 122,000 soldiers whom Alabama had sent to the field to fight for secession, 35,000 would never return; and that probably as many more would return permanently injured by wounds or disease. A large proportion of the material wealth of the state had been exhausted. Fields had been laid waste. Towns and cities, railroads, bridges, schools and colleges, and many private dwellings were in ruins. Untold sufferings had been, and were still to be endured by the women and children. "There is no longer a slave," he said, "in Alabama. It is thus made manifest to the world that the right of secession for the purpose of establishing a separate confederacy, based on the idea of African slavery, has been fully and effectually tried, and is a failure." He assured them, however, that amid all the ruin, suffering, and death that had resulted from the attempt at secession, "every political right which the state possessed under the Federal Constitution is hers to-day, with the single exception relating to slavery." But this assurance was like hope that is deferred.

Governor Parsons recognized the magistrates, and other county and municipal officers who were in office, May 22d. He authorized them to ex-

ercise their functions during the continuance of the provisional government,—the sheriffs and probate judges were to act temporarily until new appointments could be made. All these officers were required to take and subscribe the amnesty oath prescribed by President Johnson. They were liable to removal if found to be disloyal. The election for delegates to the convention was held August 31st. The same restrictions and qualifications for voters and members of the convention were prescribed as in the case of North Carolina. The civil and criminal laws, as they existed on Jan. 11, 1861, except that portion of them which related to slaves, were declared to be in full force. There was a general co-operation of the people in the reconstruction measures of the governor. The election was conducted quietly; the vote was respectably large. The convention assembled on September 10th. Ex-Gov. Benjamin Fitzpatrick was unanimously elected president, and William H. Ogbourne, Secretary. A committee was appointed consisting of one member from each judicial district, to report necessary amendments to the state constitution. Another committee was appointed to report relative to the repeal of the secession ordinance, and also to inquire into the practicability of legalizing certain acts of the legislature adopted during the war. On the 19th, an election for governor, legislature, county and municipal officers, and Representatives in Congress was ordered to take place on the first Monday in November. The legislature met on the third Monday of the same month. It disapproved of the action of the convention authorizing an election for members of Congress; hence it passed a resolution requesting the governor to issue writs of election. This made no difference, as the Representatives elected were not admitted.

The ordinance for the abolition of slavery, reported by the majority of the committee, was as follows:

First. "That as the institution of slavery has been destroyed in the State of Alabama, hereafter there shall be neither slavery nor involuntary servitude in this state, otherwise than for the punishment of crime, whereof the party shall be duly convicted."

Second. "That the constitution be amended by striking out all provisions in relation to slaves and slavery."

Third. "That it shall be the duty of the legislature, at its next session, to pass such laws as will protect the freedmen of this state in the enjoyment of all their rights of person and property."

This ordinance was passed, by a vote of eighty-nine to three. But before it was adopted, a substitute was offered by the minority of the committee. The substitute failed. Its object was to send matters to the supreme court. Debate ensued. The old questions were re-stated; for instance: The state had committed no crime by secession. Only individuals could be punished. Secession worked no forfeiture of rights of property in slaves or otherwise. The proclamation nullified the state constitution. This involved the loss of

a republican form of government, and of local sovereignty. No reclamations for the value of lost slaves would be possible, if the ordinance should pass. The other side replied, — that the war had settled secession and slavery. From the sword there was no appeal. The Supreme Court decisions were not always respected. The United States Bank and the Dred Scott cases were instanced. Slavery could not be restored, even if force were withdrawn. The South was exhausted. It would be St. Domingo over again. The Assembly of France had abolished slavery in that island. No insurrection followed. Afterward the Assembly repealed the law. The planters attempted to subject the negro to slavery. Thereupon insurrection broke out. Such would be the case in Alabama. After scenes of horror and carnage, one race or the other would be exterminated, and Alabama would become a desert.

The objection was raised that there was no power in the United States Government, by proclamation of the President or otherwise, to destroy slavery. This was a very unreasonable claim for a higher and more sacred title in slaves than appertained to any other species of property. Under such sentiment and influence, the convention, on the 22d of September, adopted the ordinance. It ratified certain laws of the state passed since the eleventh day of January, 1861. It excepted, however, all such laws as authorized the issue of bonds, treasury notes, and change bills by the state; and all laws which authorized the payment in Confederate money or bonds, of debts due to the state, for moneys loaned to individuals or corporations, and the payment of dues and taxes to the state in Confederate bonds and state treasury notes, and all laws in relation to taxation. It ignored the time between the eleventh day of January, 1861, and the passage of that ordinance, in computing the bar of the statute of limitations. The convention refused to except from ratification the laws passed by the legislature during the Confederacy, which authorized executors, guardians, and trustees to sell property and receive in payment Confederate and other currency issued during the war; also, the laws which authorized investment by persons acting in a fiduciary capacity, in Confederate or state bonds. There was good reason for this decision, since the parties affected had acted in good faith. They obeyed the *de facto* law under which they lived. To hold them responsible for the failure of the insurgency and the collapse of its finances, would have been unjust. But the convention very properly refused to ratify a transaction by which a debt to the state amounting to $225,000, contracted before the war and not payable until after its close, was paid in 1864 in depreciated Confederate notes. The injustice of that transaction appears from the financial quotations of the value of Confederate notes, as compared with gold. In 1861, the premium on the latter was from five to thirty per centum. By the end of 1862, three dollars in notes were received for one in gold; in December, 1863, twenty-one for one; in December, 1864, fifty-one for one; and on

April 11, 1865, seventy for one. From the latter date, quotations advanced to one, two, three, five, eight, ten, and twelve hundred for one, on May 1, 1865, the last quotation.

An ordinance declaring the secession ordinance null and void was also adopted by a unanimous vote. The minority of the committee in vain proposed to declare instead that the secession ordinance "was unauthorized and void." This proposition was voted down. The delegates hastened toward reconstruction. They passed an ordinance authorizing the provisional governor to act until a successor should be elected. Another ordinance was passed, which ordained that all debts created by the State of Alabama in aid of the late war should be void, and that the general assembly should have no authority to assume, or make any provision for the payment of any portion of the Confederate debt. The convention passed ordinances removing certain disabilities from the colored race. It legalized the voluntary unions that had existed between the sexes. It required for future marriages, a license according to the laws for white people. Private contracts made during the war, and decrees of courts relating thereto, were ratified. Parol proof was allowed, as to the real value of the current money at the time, and in the settlement of accounts of executors and administrators.

The convention adjourned September 30, without submitting their revision of the constitution and laws to the people for ratification. This was done to avoid the delay that its submission would have caused. The registered vote amounted to 65,825. The election for governor resulted in the choice of Robert M. Patton. He received 21,422 votes, against 15,234 for M. J. Bulger, and 8,194 for William R. Smith, an ex-member of Congress. Mr. Smith represented the more decided Union sentiment. The total vote cast was only 44,850. It was only a fraction above half the vote cast in the state at the Presidential election in 1860, which amounted to 89,572. The vote received by Mr. Patton was only a plurality of the vote cast, and was less than one-fourth of the whole popular vote in 1860. A legislature was also elected. It met November 20th. The provisional governor sent in a message in relation to the condition of the people. Why a special recognition of the governor-elect by the authorities at Washington was deemed necessary, while nothing of the kind was required in respect to the legislature, does not appear. However that may be, Governor Parsons continued to act as governor until he was formally superseded by order of the President, in a dispatch dated December 18th.

The legislature ratified the amendment to the United States Constitution which forever prohibits the existence of slavery. An additional resolution was adopted, by a majority of seventy-five to fifteen, which declared that Congress should not legislate upon the political status of freedmen. An act in relation to the freedmen provided that they should have the same rights in the courts and to the same extent that white persons had. They were declared

competent to testify, but only in open court, and only in cases in which freedmen, free negroes, and mulattoes were parties, either plaintiff or defendant, and in civil and criminal cases, for injuries to the persons and property of freedmen. In all cases, civil and criminal, in which, under that act, a freedman might be a witness against a white person, or a white person against a freedman, the parties were made competent witnesses, and neither interest in the question in suit, nor marriage should disqualify any witness from testifying in open court. An act was passed, authorizing the courts to bind out colored children under eighteen years of age, if orphans, or in cases where the parents failed to provide for them. An act regulating contracts was passed. It required "freedmen, free negroes, and mulattoes, when contracting to labor for longer time than one month," to enter into a written agreement, witnessed by two white persons. Failure to perform the contract on the part of the freedman was treated as a misdemeanor punishable, on conviction, by a forfeiture of wages and sentence for vagrancy.

The governor-elect, Mr. Patton, on assuming the duties of his office, delivered an address, in which he stated that the State of Alabama had lost $500,000,000 by the war. This estimate, however, included the value of the slaves. If the slaves had been killed or carried away, the loss would have been apparent; for in that case there would have been a real destruction. As it was, in regard to this matter, emancipation was merely a transfer of title. The governor commended the policy of the President. He claimed that the state had conformed to it. In regard to emancipation, he desired it to be understood that, politically and socially, her local affairs should be controlled by the superior intelligence of the white man. These were not the compliant sentiments, or legislation, to gain the confidence of the majority in Congress. After a recess of some weeks, the legislature met on Jan. 15, 1866. Resolutions were adopted, repelling the charges which had been circulated that the people were insincere in their professions of allegiance. The legislature pledged their cordial support to President Johnson's policy. They passed acts of a local and general character, among them a "stay law," to stop executions under suits brought since May 1, 1865, as well as to stop the foreclosure of mortgages and deeds of trust with power of sale. All such legislation had been decided, time and again, by the United States courts to be unconstitutional; but the states, North as well as South, had resorted to them in periods of pecuniary distress. A new penal code was adopted, making no distinction on account of color. The whipping-post and branding-iron were abolished. Imprisonment with hard labor was substituted.

The legislature declined to ratify the Fourteenth Amendment to the Constitution. They laid the matter over. The governor, in his message, had opposed the ratification; but at the next session he declared that although his opinions were not changed, it would be politic to adopt the amendment. Its

rejection would provoke the majority of Congress. Measures still more radical would follow. His fears were prophetic. The governor's advice was unheeded. The legislature refused by a large majority to ratify the amendment. The governor opposed the policy of re-enslaving the negroes under laws regulating labor contracts and the means of collection. He vetoed one bill of this character, but another was enacted. In his message of November, 1866, he said as to such contracts, that there had been instances of bad faith. They were suggestive of the necessity of a legal remedy. Where employers of freedmen had, by captious unreasonableness, sought, and even created pretexts for finding fault with their employés, and discharging them without pay, alleging a violation of contract, he pointed out that the only remedy left the freedman was a suit for his wages. This remedy was so tardy as to be scarcely worth pursuing. For such injustice as this, a remedy should be provided. It should be furnished by a law which would authorize a summary mode of enforcing payment for labor of the character under consideration. It was such acts of injustice that gave existence and tenure to the Freedmen's Bureau, and caused continued denial of home rule to Alabama and other states.

The Protestant Episcopal Church of America is a union of dioceses, similar to the union of the states. Hence, when secession took place, and the Southern States went to war upon the Union, the effect was to separate the Southern dioceses from those of the North, with which they were affiliated on something like the plan of the Congregational societies. In consequence of the separation the Prayer-Book was revised in the South. Prayers for "the President of the Confederate States" were substituted for prayers for the President of the United States. But after the Confederacy collapsed, there was a new revision. Although the latter revision was a necessity, there was doubtless a degree of reluctance in making the change. Some of the bishops and clergy were imbued with strong Southern sentiments. They were not disposed to anticipate the formal work of revision. It was in this mood that Bishop Wilmer, of Alabama, instructed the clergy of his diocese to omit the usual prayer for the President, and all others in authority. In this state of things Gen. Charles A. Woods issued an order, "pursuant to the directions of Major-General Thomas, commanding the military district of Tennessee," that the bishop and the clergy of his diocese should be suspended from their functions and forbidden to preach or perform divine service! Then came a discussion.

The bishop assigned as a reason for his course, that his church established a form with reference to the subject of prayer for all in civil authority. "No one," he said, "could be expected to desire a long continuance of military rule, therefore the prayer suggested was inappropriate to a condition of things, when no civil authority existed. Hence," as he said, "we may yield a true allegiance to, and sincerely pray for grace, wis-

dom, and understanding, in behalf of a government founded on force, while at the same time we could not, in good conscience, ask for its continuance and prosperity."

General Woods replied that there were a President and civil officers in existence at the time of the recommendation to the clergy, and that since then a civil government had been re-established in Alabama, but that the prayer had not been restored. It was further shown that the prayer was not a prayer for the continuance of military rule, but simply for the temporal and spiritual weal of the persons in whose behalf it was offered. What can be thought of this reasoning, in view of the doctrine of Roger Williams, Lord Baltimore, and the Federal Constitution? The General continued: "The advice of the bishop to omit this prayer, and its omission by the clergy, is not a violation of the canons of the church, but it shows a factious and disloyal spirit, and is a marked insult to every loyal citizen within the department. Such men are unsafe public teachers, and not to be trusted in places of power and influence over public opinion."

This meddlesome order illustrates the danger of intrusting despotic power to any man dressed in authority. It was a law of the Episcopal Church to offer up prayers for the President of the United States, and all others in authority; but where is the warrant in the Constitution of the United States to its officers, civil or military, to require the Episcopal, or any clergy to observe their own church canons? No other Protestant denomination has such a canon, whatever may be the custom. How then could the Protestant Episcopal clergy be required to do that which is not required, nor done perhaps, by Methodists, Baptists, and Presbyterians? Moreover, to compel men, at the point of the bayonet, to repeat prayers for persons and authorities whom they detest, is a mockery of religion, only next to the test oath itself. President Johnson very properly and promptly expunged this audacious and foolish order. Over its abrogation the best of men rejoiced.

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At the commencement of the war South Carolina had a larger colored population than any state in the Union. The ratio of the colored to white inhabitants was almost as two to one. Predominance of the African race constituted her weakest spot in a military point of view. True, her people were brave and high-spirited, having been trained for generations to the use of arms, and always having stood ready to defend their firesides and maintain dominion over their bondmen. Against a foreign enemy, however, who would assail her on her weak side by appeals to her slaves with offers of liberty, South Carolina would have been able to offer but a feeble resistance.

The real strength of the Palmetto State in the South, and in the Union, lay in the talent and aggressive spirit of her educated class. In every period of her history, they were wont to take a leading part in public

affairs. They asserted the claims of slavery to the protection of the general government. It was this daring spirit of reliance, not on her own sinews of war, but on those of the whole South, — which she confidently expected to rally to her support,— that emboldened her, in 1832, to declare the Tariff act of 1828 "null and void." It was the same reliance which prompted her to take the lead in the work of secession in 1860. The writer recalls an amusing incident before the war, in relation to the self-assertion of South Carolina. It happened in 1855, at the hospitable board of Col. John W. Forney, in Washington. The writer was on his first visit to the Federal city. He received an invitation to meet several notable men at the Colonel's house. Among them were John C. Breckenridge, Judge Douglas, Senator Jesse D. Bright, Henry M. Phillips, of Philadelphia, Lawrence M. Keitt, of South Carolina, John Slidell, and other guests. Much badinage was indulged in by Colonel Keitt toward Kentucky. It was aimed at Major Breckenridge, who was in his happiest mood, and received it with abundant drollery. Finally, he was aroused by a remark about Kentucky braggadocio. The Kentuckian rallied, and such raillery never before rolled from a humorous tongue and hilarious heart. He related his recent experience in coming from New Orleans to Washington by the way of South Carolina. "Would you believe it," said he, "there was but one man who boarded the cars on the route through that unpopulous piney-wooded land of poor soil. He was dressed in full regimentals, and entered the smoking-car with the mien of a Cambyses or Murat. Being wearied with gazing out of the car windows on the monotonous landscape, here and there varied with a few seedy negroes, and flecked with a starved sheep, or a spavined horse or miserable cow, I joined this splendid soldier in the smoking-car. I offered him a fresh cigar to engage him in conversation, and began to question him. He had on a cocked hat, with three ostrich plumes in it dyed a golden hue. His epaulettes were as goldenly superb as his sash and sword. His martial mien of defiance would have humiliated Job's proudest war-horse snuffing the battle from afar. It was in keeping with his grandiose style and superb toilette. 'May I ask,' said I, meekly, 'what is going on in this state?' Tossing his head in proud disdain, he replied: 'Going on, sir? We won't stand it no mo', sir! The governor has sent for his staff to meet him and consult about it in Columbia, sir! I am one of his staff, sir! We won't stand it any longer, sir! No, sir! It is intolerable, sir! No, sir!' 'Stand what?' I asked, in surprise, not unmixed with dread, — for I had been away South caring for my sick wife, — 'Stand what? What is going on?' He disdainfully answered: 'Stand the encroachments on our Southern institutions, sir! The abolitionists must be crushed, sir! We will do it, sir! South Carolina is ready, sir!' I told him quietly," said the gallant Kentuckian, "that there was a custom in the Indian Office at Wash-

ington, to *tote* at the public cost, a band of big Indian chiefs over the North and its marvelous cities; so that they would not go to war, when they saw what a big country they would have to whip!" The hilarities of the table responded to the jocund chaffing, and all agreed that the South Carolina governor's staff might be traveled at the expense of the United States with some advantage to their section. None more heartily enjoyed the story than Colonel Keitt himself. What an experience Mr. Breckenridge had, — from Vice-President of the United States to major-general in the Confederacy! The writer met him after the war, as mentioned in the fourth chapter. *Quantum mutatus ab illo!* How changed, alas! from that happy evening when his amiable *badinage* about sectional and state pride set the table in a roar at South Carolina's chivalry.

Alas! how much the proud and gallant little state has suffered for her frowardness. Oliver Wendell Holmes gave pathos to the saddest lyric of the war, when he sang of our petulant sister Carolina, as the child of the sun who had torn her own star from the glow of our firmament. How tenderly he touched, with the true vaticination of a poet's vision, upon the outcome of that strife when its fury should be ended, and the fortunes of Carolina at last retrieved; and when, heart aching and foot sore, she would remember the pathway that led to the door of the Union of river, of lake, of ocean, and sky. It was cruel, the threat attributed to General Sherman at Charleston, — the narrative is no doubt exaggerated, — when he menaced this stormy-browed sister with the worst punishment of war, the whip, not of cords, but of scorpions, for her contumacy. Had she not had enough in her sacrifices and humiliations? What a sufferer she was from the sectional ravages! Charleston and Columbia, her chief cities, destroyed, her property in flames, her ruling class ruined. They lost all for which they waged the war, — slavery. South Carolina had a larger proportion of slaves than any other state. She was consequently impoverished in a greater degree than her sister states.

When the surrender of Lee and Johnston became known in South Carolina, the Confederate governor, Magrath, issued an order to the civil officers of the state, who had left Columbia at the approach of Sherman's army, to resume their functions; but General Gilmore, who had been appointed commander of the department, issued a proclamation forbidding all persons to pay attention to it. In this proclamation, which applied equally to Georgia and Florida, General Gilmore informed the people that the negroes were free, and that their rights would be vindicated by the United States Government. He told them that it was the duty of citizens, white and black, to make arrangements among themselves for compensated labor on equitable terms. Idleness and vagrancy would not be tolerated, nor would the government extend aid to any persons, white or black, who were unwilling to work. This order was widely circulated over the three states, so that all might

have notice of what to depend on. This military rule remained the only government of South Carolina until June 30, 1865, when President Johnson commissioned Benjamin F. Perry as provisional governor.

Governor Perry proceeded to reorganize civil government according to the plan of the President. The powers and duties of Governor Perry were entirely similar to those laid down for Governor Holden, which are fully stated in a preceding chapter. The qualifications of electors, and of the members of the convention to be chosen, were the same. On July 31st, Governor Perry issued a proclamation, in which he temporarily reinstated all civil officers, except such as were under arrest. He called on the loyal citizens to come forward and take the amnesty oath, in order to qualify themselves as voters. Judging from past sentiments this might be regarded as a perfunctory duty on the part of the governor. It was a finger-post to the "pathway" however.

General Gilmore also issued a proclamation or general order, in response to the call of Governor Perry, ordering all persons under his command to aid the governor in carrying out the objects of his proclamation, and to abstain from hindering in any way the loyal people in the organization of a state government. An election for delegates to a state convention was held on the 4th of September. The election resulted in the choice of men who, for the most part, had been Unionists before the war. The convention assembled September 13th. By the second section of the ninth article of the constitution adopted by that convention, it was declared that, the slaves of South Carolina having been emancipated by the action of the United States authorities, neither slavery nor involuntary servitude, except as a punishment for crime after the party had been duly convicted, should ever be re-established in the state. An ordinance repealing the secession ordinance was offered by ex-Governor Pickens on the first day of the session. It was adopted on the third day of the session, by a vote of 105 yeas to three nays. An ordinance was adopted declaring that all laws, orders, and rules for ascertaining the rights of persons, which were in force before the act or ordinance of secession was passed, and all such laws, ordinances, and resolutions, except the stay law, adopted or enacted during the continuance of the Confederacy, which had not been repealed or avoided, remained in full force, excepting the slave code. Also, that all official acts of the executive and other departments of the government, rules of court, contracts, sales, and conveyances, should remain valid, as if no act of secession had been passed. It was provided, however, that where contracts and obligations made during the period named remained to be executed, it would be competent for the obligee to offer testimony as to the true value and real character of the consideration. The legislature was prohibited from imposing civil disabilities or forfeiture upon citizens for participation in the rebellion. The last section of this ordinance declared that all persons who held civil offices at the time of th[illegible]der of

the Confederate forces were to be regarded as still holding them, on condition of taking and subscribing the amnesty oath. This clause of the ordinance shows the predominant influence of the old ruling class. It was rendered negative by the condition required, as few of the high officials could run the gauntlet of the fourteen excepted classes of President Johnson's Amnesty proclamation.

It is evident that the President's plan could not have been carried out in South Carolina, as regarded the higher officials, without his co-operation in granting pardons: — this was a policy which would have worked far better in North than in South Carolina. It was not resorted to, except as to magistrates and subordinate officers. The governor thought that emancipation would cause the negroes to abandon labor to a considerable extent, and it did for some time. He advised the sale of superfluous lands to immigrants and capitalists. He thought it desirable that members should be elected to Congress immediately, so that they might be present in Washington and have their names enrolled by the clerk. He believed that this course would insure their reception.

The election for members of the legislature, governor, and lieutenant-governor took place on the 18th of October. James L. Orr, who had for many years held a seat in Congress, in which body he took a leading part, was chosen governor by a small majority over Wade Hampton, who had distinguished himself as a general in the Confederate service. The total vote was only 18,885, which, as representing a population of 250,000 whites and 400,000 blacks, must be regarded as very light. It was less than three per centum of the people. The legislature met in extra session on the 25th, only seven days after the election. The provisional governor addressed a long message to that body. It was characterized by the conservative spirit which marked his career from the beginning. He claimed to have been appointed without solicitation on his part or that of his friends. After stating his reasons for accepting the appointment, and his desire to carry out the generous views of the President, he said: "Though I received my appointment several months after other provisional governors had been commissioned, I have the pleasure of informing you that South Carolina is now as far advanced in her reconstruction as any other Southern state. Instead of wasting time in trying to fill all the civil offices of the state by my personal or political friends and partisans, I determined to restore those who were in office at the suppression of the civil government, and who had been elected by the people or appointed by the legislature, and were familiar with their official duties. I knew too well the character of South Carolina to doubt for a moment that her sons would prove loyal and true, after renewing their oaths of allegiance to the United States. In this way I re-established civil government at once in South Carolina, and greatly expedited her reconstruction."

An obstacle to the legitimate action of this first session of the legislature presented itself in the fact that the governor-elect under the constitution had not been sworn in. The approval of acts by the provisional governor would not be valid, as he was not an executive known to the constitution. The matter was referred to a committee which reported in favor of proceeding with legislation, with the understanding that the enactments were to await the signature of the constitutional governor when he should be sworn in. But the legislature, regarding this course as improper, took a recess from the 10th to the 27th of November. In the meantime the obstruction was removed by the recognition of the governor-elect on the part of the President, and on the 27th of November he was sworn in. President Johnson and Secretary Seward sent repeated dispatches to Governor Perry, urging the importance of the ratification of the Thirteenth Amendment of the United States Constitution. The governor replied that the objection on the part of members of the legislature was, that the second clause might be construed into an authorization of congressional legislation with regard to the subject. Mr. Seward answered that the objection was "querulous and unreasonable," and that the clause in question was "really restraining in its effects, instead of enlarging the powers of Congress." This persuasive style of argument, from the head of the Cabinet, had its intended effect of inducing favorable action on the amendment.

The President called the attention of Governor Perry to the necessity of repudiating the debt contracted by the state in aid of the rebellion. To this that officer replied that the convention had adjourned, and that the legislature had no authority to repudiate it; that the debt thus contracted was inconsiderable in amount; that it was for the most part due to widows and orphans whose estates had been invested in it for safety; and that it was so blended with the legitimate debt as scarcely to be distinguishable. Mr. Seward, in reply to the governor, said that while the objections which he had urged were serious, nevertheless the President awaited with interest the action of the legislature upon the subject. The tone of the dispatches from the President and the Secretary of State to the provisional governor on this subject was less imperative than that employed in regard to other states. The legislature on October 19th passed an act preliminary to the legislation that would become necessary in consequence of the emancipation of the slaves. A commission was appointed to revise the laws in regard to negroes, and to adapt them to the new order of things. The commission, consisting of two lawyers, made their report to the legislature; but that body failed to act upon it, and it fell to the ground, with the whole fabric of Mr. Johnson's policy. The preliminary act referred to declared that all classes of negroes save those having seven-eighths or more of Caucasian blood, should be deemed persons of color; that the statutes and regulations concerning slaves were then inapplicable to persons of color; and that, although such persons were

not entitled to social and political equality with white persons, they should have the right to acquire, own, and dispose of property, to make contracts, to enjoy the fruits of their labor, to sue and be sued, and to receive protection under the law in their persons and property. It extended to persons of color, subject to certain modifications, all civil rights and remedies respecting persons and property, and all duties and liabilities under laws, civil and criminal, which applied to white persons.

An act to amend the criminal law was passed on December 19th. It provided that the crimes specified in the first section should be felonies, punishable with death. The law was made particularly applicable to persons of color with respect to some of these crimes. These were willful homicide by a person of color unless in self-defense; any assault by a person of color upon a white woman, with manifest intent to ravish her, and sexual intercourse by a person of color with a white woman by personating her husband. There were other offenses defined in this category, but they seem to have been general in their application. Among them, to steal a horse or mule, or bale of cotton, was set down as a capital felony. Among the offenses also enumerated for persons of color, was the selling by such person of any product of the soil without written authority from the master who employed him. This act declared also that persons of color constituted no part of the militia of the state, and made it a misdemeanor for a colored person to have in possession any fire-arms without a permit from a judge or magistrate. It prohibited a colored person owning, in whole or in part, a distillery, or to be engaged in distilling spirituous liquors. The penalty was by fine, corporal punishment, or hard labor. It was also provided that no person of color should migrate into, or reside in the state, unless within twenty days after his arrival he should enter into bond, with two freeholders as securities, to be approved by a judge or magistrate, in a penalty of one thousand dollars, for his good behavior, and for his support if he should become unable to support himself. Any person might arrest a person of color for a misdemeanor committed in his presence, or for a misdemeanor committed against a white person. Any person might make the complaint to a magistrate, whose duty it became to have the offender arrested. Special courts were to be established, with exclusive jurisdiction, subject to appeal, in cases in which one or both the parties were persons of color; and persons of color were allowed to be witnesses in all such cases.

The intelligent reader need not be reminded how inopportune, as well as unjust, were these enactments for the government of the freedmen. The hatred of slavery had then risen to fever heat in all the Northern states, and there was a rapidly growing sentiment — which this sort of legislation fructified — in favor of giving unqualified and universal suffrage to the emancipated blacks. It was little short of madness, therefore, for Southern men to think of substituting a system of serfdom, in place of slavery. The immediate

effect of this new colored code was to call from the commander of the district, Maj.-Gen. Daniel E. Sickles, a general order which completely nullified, or quashed, the whole fabric of the legislative labor.

This general order consisted of twenty-three sections. It declared, among other things, that all laws should be applicable alike to all inhabitants; that no person should be held incompetent to sue, make complaint, or testify, because of color or caste. The order declared that the employment of husbandry, or the useful arts, and all lawful trades or callings, might be followed by all persons, irrespective of color or caste; and that no freedman should be obliged to pay any tax or any fee for a license, or be amenable to any municipal or parish ordinance, not imposed upon all other persons. The general order then proceeded *seriatim* to annul the enactments of the legislature which discriminated against colored persons. The restraints imposed upon colored men who desired to pursue mechanical and other occupations, which were not menial nor agricultural, and the prohibition to travel from place to place were abolished. Any attempt to enforce these obnoxious legislative acts was made a misdemeanor, punishable by fine and imprisonment. And so with all other legislative discriminations against colored people. No penalties or punishments were to be inflicted on freedmen different from those to which white men were liable; and corporal punishment was prohibited, except in the case of minors, and then only by parents, guardians, or persons to whom the minors were lawfully bound. Injuries to the person or property of a freedman were to be punished in the manner provided by the laws of South Carolina for like injuries to white persons and their property.

It must be admitted that this order of Major-General Sickles was conceived in a spirit of wisdom and justice; and that in this regard it contrasts favorably with the legislative enactments of South Carolina which it annulled and superseded. This is not the first instance in history in which the will of one man invested with despotic authority has vindicated the rights of the masses against the tyranny of an oligarchy. — The Romans created their Tribunes, and gave them the veto on the Senate with that express object. The leaders of the dominant party in Congress eagerly took advantage of this sort of legislation to protract reconstruction, in the furtherance of their policy to deny the Southern States a republican form of government, until they should be transformed into partisan allies.

CHAPTER XXIII.

TEMPORARY ORGANIZATIONS OF STATES.— CONTINUED.

FLORIDA DEPENDENT ON OTHER STATES — THE CONFEDERATE GOVERNOR, JOHN MILTON — HIS SUCCESSOR, GOVERNOR WALKER — FLORIDA ADOPTS THE THIRTEENTH AMENDMENT — LEGISLATION AS TO NEGROES, FIREARMS, MARRIAGE, CONTRACTS, AND VAGRANCY — VIRGINIA ATTEMPTS TO RECONSTRUCT — GENERAL BUTLER'S ACTION — GENERAL WEITZEL AND PRESIDENT LINCOLN AT RICHMOND — PRESIDENT JOHNSON'S ORDER — PIERPONT'S GOVERNMENT — ATTEMPTED REPEAL OF WEST VIRGINIA SECESSION — CONGRESS INDIFFERENT — INDORSEMENT OF JOHNSON'S POLICY — LOUISIANA — GENERAL BUTLER AND THE COLORED PEOPLE — HIS VERSATILE AND VALUABLE QUALITIES — ATTEMPTS TO ORGANIZE COURTS — REGISTRY, VOTERS, AND GOVERNMENT — GENERAL BANKS AND HIS EFFORTS — GOVERNOR HAHN AND HIS PELICANS — GOVERNOR WARMOUTH AND HIS RADICALS — ONE-TENTH VOTING POLICY — PRESIDENT JOHNSON INTERVENES — BLOODY RIOTS OF 1864 — WARMOUTH GOVERNOR — NEW CONSTITUTION IN 1868 — WARMOUTH'S LETTER — ITS STATEMENTS DENIED — OTHER RIOTS UNTIL 1868 — LOUISIANA RECLAIMED — CONFISCATION AND RASCALITY — WINTER DAVIS' BILL — ARKANSAS — HER EARLY MOVEMENTS — RADICALS IN CHARGE — LEGISLATIVE CRUDITIES — CONVENTION OF 1866 — LABOR QUESTIONS — SOLDIERS AND CIVILIANS BOTH TYRANNICAL — THE POLAND COMMITTEE — GARLAND SAVES THE STATE — SKETCH OF GOVERNOR, SENATOR, AND ATTORNEY-GENERAL GARLAND.

FLORIDA was an out-lying state, of small population and wealth. She had escaped the ravages of war. No strategic advantage was to be gained by contesting the possession of any of her extensive territory, except Pensacola. It was well understood that her fate would follow that of the adjoining states, and that their submission to the arms of the Republic would compel her compliance.

The governor was John Milton. Although not conspicuous for his energy, he was as representative a man as any of the five who are pictured in the preceding chapter. His life is worth a study in its relation to the great events of which it formed a part. He served during the whole war, as

governor. He was thoroughly devoted to the Southern cause. Even in its sinking condition, he displayed heroism beyond all praise, amid distraction and despondency. He was born on the twenty-first day of April, 1807, in Jefferson County, Georgia. He was the son of Col. Homer V. Milton, of the United States Army, and grandson of the John Milton for whom, in our early history, Georgia cast her vote for the Presidency of the United States; so that he had brave, rebellious, and patriotic blood in his veins. He was educated at the academy in Louisville, the county seat of Jefferson County. He studied law under Rodger L. Gamble. He practiced in his native county. After a year or two he moved to Columbus, Georgia; and while there he became engaged in politics. He ran for Congress on the nullification question. He was defeated. He afterwards resided in Mobile and in New Orleans. In both places he had a large practice. In 1846, he moved to Jackson County, in the State of Florida. He settled on his farm. He only appeared in court occasionally. He was devoted to agricultural pursuits. His hospitality was proverbial. His social qualities not only transmuted acquaintances into friends, but made all strangers welcome. His conversation was of rare quality and full of wisdom and wit. His knowledge of national and state measures, and prominent men, was immense. He was a surprise to his friends, for, although he was not a hard student, he seemed to grasp matters by intuition. Nature did much for him. Although he preferred domestic life, the people would not allow him his coveted ease. At every election, from 1846 to 1860, his voice was heard. He marshaled the Democratic forces. He was elected to the legislature in 1849. He was one of the Democratic electors in 1848, and visited and spoke in every portion of the state. He became thus fully known to the people of Florida. They appreciated his abilities as a statesman and orator.

The author met him first at the National Democratic Convention, at Charleston, in 1860. He deplored the necessity that caused a division in the Democratic party. He feared that it would produce a rupture between the states. He was a warm supporter of General Breckenridge. In 1860, he was nominated for governor. He made a thorough canvass of the state, and was elected by a large majority. He was inaugurated as governor in 1861, for four years. After the withdrawal of the state from the United States, like a large portion of the Southern people he felt that the election of Abraham Lincoln, as a sectional candidate, was a sufficient cause for the withdrawal of Florida. He favored a confederacy, not only for the protection of states rights, but to preserve the rights of property in slaves. He warmly indorsed the action of his state. It was in accord with his ideas of 1832. When war was declared, he foresaw that the South had much to contend with. Her success would be doubtful; but his voice and material aid were freely given. He cheerfully and resolutely cast his fortune with his people. Although in the latter part of 1864 he saw that the for-

tunes of war were with the United States, and began to doubt the wisdom of secession, he never varied from the cherished ideas of his early manhood. In 1864 and 1865, there were heavy and repeated calls for men and provisions made upon the Confederate States. The old and young of Florida, through the influence of their governor, had enlisted in the war, regardless of age and exemption. Her coast was extensive, and easy of approach. It required more men than she had, to guard it. Invasion was threatened, and in some points it was actually made. Tallahassee, the capital, was an objective point; and in March, 1865, the troops of the United States landed at St. Marks. They sought to hold that part of the state, but were repulsed at the Natural Bridge, with loss, and obliged to re-embark. In the eastern part of the state, similar attempts were made. These attacks, with the knowledge that the Confederacy was daily growing weaker, caused much distress to Governor Milton. He was approachable by all. He listened to the complaints of his people. As a parent with his offspring, he sympathized in their sufferings. These anxieties, linked with mental work and constant care, produced softening of the brain. On the 1st of April, 1865, he died. In him the land of flowers lost a devoted friend and a good governor. The requiem over his grave was as sincere as it was sad. The president of the state senate, Abraham K. Allison, succeeded him. On April 8th, the day before the surrender of the Confederate forces, Mr. Allison issued a proclamation for an election of governor, to take place on June 7, 1865. The election was never held. The proclamation was countermanded by Major-General Gilmore, who held military possession until the inauguration of Mr. Johnson's civil provisional governor.

On the 13th of July, 1865, the President appointed William Marvin provisional governor. An election of delegates to a convention was ordered to be held October 10th. The electors were to be of the same classes with those designated for North Carolina. On August 2d the governor addressed a meeting at Jacksonville. In his speech he explained the policy of the President. He called attention to the necessity of radical changes in the constitution and laws. Referring to the exceptions made by the general amnesty, he said that he would recommend to the President's consideration all who gave evidence of penitence. Abandoned property that had been seized would be restored, when, after a hearing, it should be decided to pardon the owner. He appealed to the people to lay aside revengeful feelings, and to enter heartily upon the work of reconstruction. He had no authority to resuscitate the civil authorities, but he could aid the people in doing so. The proclamation, issued the next day, reiterated these sentiments. It stated specifically the things necessary to be done. In regard to the negro, he said that the freedom guaranteed to him was that of a citizen of the United States.

On the 10th of October, in obedience to the proclamation, an election of delegates took place. The delegates chosen met at Tallahassee on the 25th

of October. The governor, in his message to the convention, urged the necessity of guaranteeing the civil rights of the negro. He undertook to define what he understood to be implied in the idea of freedom, under an organized government. He recommended that the convention declare the secession act null and void from the beginning; but that body only agreed to declare it void. The ordinance for repudiating the debt contracted by the state in aid of the rebellion was adopted. The convention ordered an election for governor, legislature, other state officers, and congressmen. It was to take place on November 29th, and the legislature was to convene on the third Monday in December. The election resulted in the choice of David S. Walker for governor, and Ferdinand McLeod for Representative in Congress. The vote polled was less than 4,000, or little more than one-fourth of that cast in 1860 for the Presidential candidates.

The legislature met at the time appointed,—December 18th. It was organized. The provisional governor renewed his suggestions in regard to the negroes. He added, that they should be required to fulfill their contracts of labor. Three days later he was superseded. This was done by order of President Johnson. The governor-elect, Walker, was immediately inaugurated; but for some reason he failed to assume the duties of administration until Jan. 17, 1866. In his inaugural address, Governor Walker indicated a policy similar to that of his predecessor. He was opposed to granting suffrage to the negro. The direct tax imposed by Congress upon all the states, during the war, remained to be collected at its close, in the states which were then in arms. The quota of Florida was $77,522. The legislature memorialized Congress to allow the state to assume this tax as a debt, and thus to waive its collection. In the end, however, this tax was abandoned altogether by the government, as to the South, after some of it had been collected.

The legislature ratified the Thirteenth Amendment to the United States Constitution. But this was not done until the 28th of December, ten days after Mr. Seward had announced that the amendment had become a part of the Constitution.

An act passed on Jan. 11, 1866, while it accorded to the colored people the right to sue and be sued, and abolished the laws relating to slaves and free negroes, provided that the laws forbidding the migration of free negroes into the state, and the sale of fire-arms to them, should continue in force. Another act of the same date required all colored inhabitants living together as husband and wife, and who had not been joined as such agreeably to the laws, and who should desire to continue in that relation, to appear within nine months after the passage of the act before some person legally authorized to perform the ceremony, and be joined in matrimony. The issue of the prior cohabitation of such parties was declared to be legitimate. All laws relating to marriage between white persons were extended to people of color.

An act of January 12 related to contracts of persons of color. It provided that they should be in writing, in duplicate, and that they should be explained to the parties in the presence of two witnesses. One copy was to be retained by the employer, and the other to be filed with some judicial officer. Contracts for service or labor for less than thirty days might be made by parol. Refusal or neglect by the employed to perform the stipulations of the contract by willful disobedience of orders, wanton impudence or disrespect to the employer, or agent, failure or refusal to perform the work assigned, or idleness or abandonment of the premises,—subjected the offender on complaint of the employer or his agent, under oath, to the penalties of the vagrant act. The offender, in such case, immediately, or at the expiration of his contract, was liable to summary ejection from the house occupied by him, on the application of the employer to the judge of the criminal court. The question of failure of the employer to comply with the contract, was triable by jury on complaint of the laborer to the criminal judge. Either party was entitled to an appeal.

Thus was Florida launched again upon a sea of troubles. Was she to remain tranquil? The sequel will show.

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The passage of the secession ordinance by Virginia in 1861 was the signal for the secession of the western from the eastern counties. The new State of West Virginia came into being in an abnormal manner. She was admitted into the Union as a free and independent state.

The original Pierpont government of Virginia was recognized by President Lincoln. Its organization was completed by President Johnson. Other states, some successfully and some unsuccessfully, followed the example of Virginia. The subsequent chapters will show the trials through which these states passed before they became engrafted upon the Federal stock by accepting the amendments of the Constitution, and other conditions. It is enough now to say, that the only condition annexed to the recognition of a seceding state was, that there should be a proportion of loyal or pardoned people in it, of one-tenth or more to the population. These were to give the initiative to the movement. Forty counties in Virginia became the only new state created during the war, except Nevada. Their delegates were thought to have power to break up a sovereign state into fragments equally sovereign. The Senators and Representatives of this new creation sat in Congress, and voted on problems concerning the *status* of the Old Dominion. Was *she* legitimate, and if not, was she in existence at all? Such was one of the inconsistencies which spring up when the law of force directs the movements of men toward social order.

The futile attempt to organize a loyal government in a few of the eastern counties and parts of counties which had come under the control of the Union forces in 1863 and 1864, deserves notice. It was an experiment at

reconstruction, although its immediate results were insignificant. Not more than four or five entire counties, with Norfolk and Portsmouth, and parts of other counties, participated in this enterprise. Although a constitution was formed, and state officers and congressmen were elected, the project never received the recognition of Congress. It is true that the Senate, years after the event, paid one of the Senators-elect, Mr. Segar, a year's salary for his attempt to serve the cause of reunion. But this sum was paid more on the plea *ad misericordiam;* for this gentleman had grown old and poor in waiting for his recompense. General Butler, in June, 1864, put the question to the vote in Norfolk City, whether the people preferred the imperfect and powerless civil government under "Governor" Pierpont, with the payment of taxes to support it, to the inexpensive but despotic rule of the military. It was decided, by a large majority, in favor of the latter. General Butler thereupon issued an order forbidding all attempts to exercise civil authority within the city of Norfolk. Mr. Pierpont appealed to the United States Circuit Court. Backed by the opinion of Mr. Attorney-General Bates, the court decided in favor of the civil authority. There was a promise that President Lincoln would interpose and restrain the action of the military. Nevertheless, in the midst of the whirl of more important events, nothing was done. The military authorities prevailed.

Richmond was evacuated on the night of April 2, 1865. On the morning of the 3d, General Weitzel marched in without opposition. He was greeted with a hearty welcome from the mass of the people. A dispatch was sent to the Secretary of War. It said that General Weitzel found much suffering and poverty among the population. The rich as well as the poor were destitute of food. Supplies were issued to all who took the oath. The inhabitants were about twenty thousand, half of them of African descent. Mr. Lincoln, who was at City Point during these last throes of the Confederacy, entered Richmond on the 4th. While there, ex-Judge Campbell, of the United States Supreme Court, saw him. He suggested that the President might negotiate with the state for a restoration to the Union. In the Hampton Roads conference, Mr. Lincoln had taken the ground that he could recognize neither the so-called "Confederate States" authorities, nor those of the states which were insurgent. But, in his anxiety for peace and restoration, he was now willing to avail himself of any feasible means to those ends. He therefore authorized General Weitzel to allow the members of the legislature to assemble and consult with reference to restoration; but for no other purpose.

On the 12th of the month, the Richmond *Whig*, which had appeared as a Union newspaper immediately after the abandonment of Richmond by Mr. Davis and his government, published an address to the people of Virginia. This address was signed by members of the legislature, and other prominent citizens. In view of the fall of the Confederacy, and the surrender

of its forces, it earnestly requested the governor, lieutenant-governor, and members of the legislature to repair to Richmond by the 25th of April. But the meeting of this legislative body never took place. Mr. Lincoln himself forbade it. His assassination, soon after, so exasperated the country, as to make public sentiment, for the time, intolerant of conciliatory plans of restoration. The matter seemed to be left in the hands of the secession leaders themselves. Major-General Halleck superseded General Weitzel in the command at Richmond. He forbade the meeting of the members of this Confederate legislature. It is clear, however, from Mr. Lincoln's guarded note to General Weitzel, that he was far from intending to recognize that so-called legislature of Virginia. On the contrary, his purpose was to allow its members, as the leaders of public opinion, to propose measures that might result in the restoration of peace and union. He had no sympathy with the spirit of partisan or sectional hatred which would have excluded nine-tenths of the intelligence, wealth, and character of the South from participation in its government for a generation. His mind and heart were cast in a larger mould. On the 9th of May, 1865, President Johnson issued an "executive order to re-establish the authority of the United States, and execute the laws within the geographical limits known as the State of Virginia." It declared null and void all acts and proceedings of the Confederate and state governments that were inconsistent with the Constitution and laws of the United States. It further declared that all persons who claimed to exercise authority under them were liable to the penalty of treason. The same order directed the members of the Cabinet and the district judge to proceed to put in force the laws of the United States pertaining to their respective departments. The last section recognized the authority of Governor Pierpont, who was elected by the Union men of the West Virginia counties; but who, when they assumed an independent position as a state, removed the seat of their government to Alexandria.

The constitution framed at Alexandria, in February, 1864, by delegates from ten counties and parts of counties, restricted suffrage to persons who had not borne arms against the United States, nor given aid and assistance to its enemies, since Jan. 1, 1864. This was as far back as the delegates could go in the way of disfranchisement and leave themselves any constituents. It now became a necessity to open the door still wider, otherwise there would remain nine-tenths of the counties, not only without voters, but without men enough qualified to hold the county offices. The happy thought of sending "carpet-baggers" to these counties for this purpose seems not to have occurred to Governor Pierpont; and he accordingly felt constrained to recommend an extension of the elective franchise. He called a special session of the legislature to meet June 20. In his message to that body he stated his difficulties pointedly. He recommended the President's amnesty oath, or one of similar import, in place of the one pre-

scribed in the constitution. Acting on this suggestion, the legislature submitted the question to the popular vote. The constitution was amended accordingly with little opposition.

This loyal reorganization of the state government of Virginia was based on the action of the western counties, in the year 1862; and among the first acts of the legislature was an effort to destroy the ladder on which they had ascended, as they believed, into the Union. In other words, they attempted to repeal, and did repeal, so far as their action was valid, the consent given by the legislature of May 13, 1862, to the division of the state. A bill to this effect was introduced in the lower house of the legislature early in the session. The rules were suspended, and it was passed without opposition. The bill was sent to the Senate, where it was passed with equal celerity. It is probable that Governor Pierpont and his friends were as much in favor of this act as the newly enfranchised members of the assembly; since it would have given strength to the Union sentiment in the state. By the same act, the consent heretofore given to the transfer of the counties of Berkeley and Jefferson to West Virginia was repealed. But this procedure on the part of eastern Virginia, under her inchoate and unrecognized government, was disregarded by Congress. If eastern Virginians claimed and acted on the disputed right to secede, might not western Virginia act on the indisputable right to rise against secession?

The legislature cordially indorsed the policy of President Johnson. It declared the purpose of the people of the state. That purpose was to stand by the results of the war; including the abolition of slavery. It denounced the efforts of those who attempted to misrepresent their views to their injury. The closing resolution, protesting against amendments to the National Constitution, shows how completely the little nucleus of original Republicanism had been drowned out by the influx of voters and representatives, under the amended state constitution. The legislature passed an act, regulating contracts between white and colored persons. The colored man was not to be bound by an agreement to labor for a white man for a longer period than two months, unless the contract was in writing, properly authenticated and witnessed. The masters of apprentices were bound to teach them to read and write. A vigorous vagrant act was passed, which brought down a military veto in these words: "It is ordered that no magistrate, civil officer, or other person shall in any way or manner apply, or attempt to apply the provisions of said statute to any colored person in this department." The order should have been made applicable to all cases, without regard to color. The statute seems to have been general in its application. The order should have been as general. There was no reason why the poor whites should be left to the tender mercies of the Virginia justices of the peace. President Johnson allowed this order to go into operation; and the legislative enactment, therefore, fell to the ground. An act was passed, giving colored

people the right to testify in all cases in which any of the race were parties. It was thus, through the fires of fresh contentions, that the proud state of Washington, Jefferson, Madison, and Henry passed from chaos to cosmos; the cosmos, albeit, not entirely rounded with beauty, nor lustrous, as yet, with its olden benignity and glory.

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New Orleans fell under the control of the United States forces in April, 1862. For some time the city and its vicinity were governed by the military, under the command of Maj.-Gen. Benjamin F. Butler. His rule at the time was denounced by the Southern people as brutal and cruel. But a change of General Butler's political course, in recent years, and many revelations of his better nature have brought about a more charitable feeling towards this remarkable civilian, jurist, advocate, soldier, and statesman. The colored people regarded him as a deliverer and friend. Some of their encomiums upon him for his service in New Orleans seem unconscious irony; but they were far from this, they were sincere expressions of gratitude to which he was well entitled. The writer once asked General Garfield what was the best specimen of African humor he had heard in his experience, North and South. He related this: The colored folk of New Orleans, at a banquet, proposed the health of General Butler, their friend, in this unique fashion: "Here's to General Butler. He has a white face, but he has a black heart." Whatever the color, there can be no question of its generous and philanthropic instincts. Whatever may be the political and party inconsistencies of this civic and martial hero of a hundred fights, he is always consistently faithful to what he regards as right. His ultimate good temper and lack of malice adorn a character worth the study of the mental and moral philosopher. The memories of many years in Congress with this man of surprising intellect and extraordinary acquirements in every branch of knowledge, during which every phase of his many-sided character, and every angle of his singular course has been turned toward the observation of a critical public, induce the writer to say, that after every fierce wrangle or debate on the exciting topic of those years, or during the hours given to social intercourse in and around the House, there has been encountered in this man's conduct nothing but gentleness and justice toward the poor and heavy-laden; and always unswerving fidelity to friends. Not a few instances of his humanity and generosity to persons who were conspicuous for their hostility to the Union, are now told by his old enemies. Much remains to be told of General Butler which would reflect the highest credit upon his heart and head.

In August, 1862, Gen. George F. Shepley, of Maine, was appointed military governor of Louisiana. He instituted new civil courts for the city and county, or parish, on the model of those which had formerly existed, and with the same jurisdiction, modified only as far as was necessary under

the circumstances. These courts entered upon the discharge of their duties about the 1st of November, 1862. In December, a supreme court was extemporized by the President. Its jurisdiction extended over such part of the state as was within the Union lines, which was a variable area. Appeals lay from the city courts and from the provost courts to this supreme court.

In February, 1863, an enterprise was set on foot for the reorganization of the state government on a loyal basis. The question was brought before the Union associations. They came to the agreement that as a first step, a registrar should be appointed for each parish, who was to be directed to open books, and to inscribe therein the names and residences of all citizens of the United States, who having resided six months in the state and one month in the parish, should swear to the fact and take the oath of allegiance, and also swear that they took the oath of allegiance voluntarily, for the purpose of forming a state government loyal to the United States. An election was to be ordered by the military governor as soon as a sufficient area of the territory of the state to justify it should be brought within the Union lines. The ratio of representation in the convention was to be one delegate for 2,500 of the white population according to the last census. The first and second congressional districts of Louisiana were excepted by President Lincoln from the operation of his Emancipation Proclamation. There slavery still existed. Thomas J. Durant was appointed attorney-general and commissioner of registration. This gentleman was at the same time president of the "Free State General Committee." A registration of the city votes was made. But that in the parishes was scarcely begun, when the state was overrun by the Confederate forces. This caused a suspension of the work.

Another movement to reorganize the state government was made on the part of the planters, in June, 1863, under the Constitution as it existed at the beginning of the war. A delegation was sent to Washington to lay this proposition before the President, who was petitioned to order a general election on November 1st. The purpose was to save slavery; but the President, without alluding to slavery, declined to order the election, on the ground that another movement was pending for the restoration of the state government. It may be added, however, that a more substantial reason for the refusal lay in the fact that the slaves having been declared free by the proclamation of the President, with the indorsement of Congress, the faith and honor of the Nation were pledged to make good that promise of freedom. The delays caused by the inroads of the Confederate forces in the parishes around the city induced the President to consent to a reorganization of the state on a basis of less population than he had prescribed in his Amnesty proclamation.

The free colored people presented a petition to the military governor, Shepley, asking to be recognized as citizens and voters. Their petition was

not granted. But at this stage of the proceedings, and in disregard of the spontaneous movements of the people for reconstruction, Major-General Banks issued a proclamation. It was dated Jan. 11, 1864. It ordered an election for governor and other officers, and delegates to a state convention. For the time being they were to constitute the civil government of the state, "under the constitution and laws of Louisiana," except so much of the constitution as sanctioned and regulated slavery. The election was to be held on the 22d of February. "This proceeding," he declared, "is not intended to ignore the right of property existing prior to the rebellion, nor to preclude the claim for compensation of loyal citizens for losses sustained or other authorized acts of government." The oath of allegiance prescribed by the President's proclamation, with the condition affixed to the elective franchise by the constitution of Louisiana, was to constitute the qualification of voters.

It must be admitted that this proclamation was inconsistent with itself, in more respects than one, as was pointed out by the Free State Committee, as well as with the subsequent course of General Banks, in regard to the negroes. It proposed to organize a government under the old constitution, and yet dispensed with a legislature, which was necessary to the levying of taxes and the making of appropriations. It professed to recognize the existence of slavery, and the right of loyal slave-owners to compensation for the loss of their enlisted bondmen; and on the 23d of February another proclamation was issued, in which the negroes were treated as freedmen. The Free State Committee resented this arbitrary interference with their efforts to re-establish civil government. They issued a spirited protest against it.—It must, however, be admitted that the code of General Banks for the government of the negroes was, under the circumstances, and for the time, a wise one. It is said to have operated beneficially, and it probably gave expression to the views of President Lincoln.

General Banks, on the 13th of February, 1864, issued a general order in regard to the qualification of voters in the election of delegates to the state convention. He prescribed the qualifications of voters in terms which would embrace every citizen of the state who was willing to take and subscribe President Lincoln's amnesty oath. This was simply an oath to support the Constitution of the United States and the proclamations and laws of Congress in regard to negroes and slaves. The election was held on February 22d. There were three candidates for governor, namely, Michael Hahn, B. F. Flanders, and J. Q. A. Fellows. Only 10,270 votes were cast, in a white population of about 350,000. More than half the votes were cast in New Orleans. The soldiers participated. Mr. Hahn received a majority of the votes, and was inaugurated on the 4th of March, amid the firing of cannon and ringing of bells. General Banks addressed the people on the auspicious occasion. President Lincoln recognized Mr. Hahn as governor. The writer recalls Governor Hahn. He was short, and lame. He had

dark, curly hair, and a brown complexion. He was of a vivacious temper. He served in Congress during the first part of the war. Whether or not he was fitted for the exacting duties of governor of this state, to which the passionate Creole and the chivalric Southron gave tone and temper, he was a most amiable and persuasive gentleman, and accomplished in the amenities of congressional life. He did not debate a great deal; but he had a fervid love for his state. He seemed to pet the pelicans—mother and offspring—which plume themselves upon the escutcheon of Louisiana. Once, in speaking, he referred with a "proudly eminent" gesture, to this symbol of sovereignty and emblem of maternal sacrifice. The young pelicans, in gaudy hues, upon the glass panel in the ceiling of the chamber of the House, continued impassively to draw their life-blood from the breast of their devoted mother, unmoved from their attitude of nourishment by the fervor of the allusion; but the House *was* moved. The illustration smacked of blood. This ornithological mode of phlebotomy seemed so apposite, as an analogue of the war of the minor states against the motherly Federal system, that the splendid flight of elocution evoked uproarious laughter at, not with, the eloquent member.

An election of delegates to the state convention for the revision of the constitution was ordered on the 11th, to take place on the 27th of March. It was ordered, not by the recently inaugurated governor, but by General Banks, who prescribed the qualifications of electors, and the number of delegates to be chosen. Each parish within the military lines, except Orleans, was to vote for delegates by general ticket. The voters were to be all white male citizens of the state who had been resident in it twelve months, and in the parish six months, and who had taken and subscribed the President's amnesty oath. On the 16th Governor Hahn issued a proclamation to the sheriffs, directing them to open the polls and hold elections. The election was held on the 28th of March. Ninety-seven delegates were chosen. Sixty-three were from New Orleans. The number of votes was never stated. This leads to the inference that it was not larger, if so large, as that cast on the 22d of February, for governor. The convention assembled on the 6th of April. It was organized on the 7th by the election of E. H. Durell, as President. After a session of seventy-eight days, the convention adjourned, having completed its labors. The constitution framed by this convention abolished slavery, restricted suffrage to the white men, but authorized the legislature to extend suffrage. It provided for general education. It submitted this constitution to the people for ratification. The election for this purpose was held on the 5th of September. For ratification there were 6,836 votes, against 1,566; total, 8,402. In a white population of 350,000, this vote was scarcely enough to give assurance of a stable government, or evidence of returning Republican rule to the state.

At the election which ratified the constitution, a legislature and a dele-

gation of five members to Congress were chosen. The legislature was almost unanimously in favor of the free state constitution. Seven electors for President were chosen by this body; but the state not having been re-admitted into the Union, the electoral vote was not counted. In fact, only about one-fourth of the territory of the state was within the control of the new government; the remaining three-fourths being still under the control of the Confederates. So feeble was the civil authority of the new government, even within the parishes that had participated in the elections, that the administration of justice had to be supplemented by martial law. The legislature having elected Governor Hahn United States Senator, he resigned early in 1865 and was succeeded by the lieutenant-governor, J. Madison Wells.

The friends of the Union were by this time divided into two parties, styling themselves respectively, "The National Conservative Union" party, and the "Radical Republicans." "The National Democratic" party, in a popular convention, on October 2d, denounced the constitution of 1864 as a fraud which had not the sanction of the people. It demanded a state convention for the formation of a new constitution. At an election for the legislature this party carried almost every district; but, strange to say, they renominated by their convention, J. Madison Wells, as governor, who accepted their nomination. This was done, however, because he had been recognized by President Johnson.

During the month of November, 1865, Henry C. Warmouth, a radical Republican, was elected as a "Delegate" to Congress from the "Territory of Louisiana." He received 19,000 votes. A part of them were colored — probably the greater part. General Warmouth was a Northern man, a brave soldier of fine presence and winning manners. He was never backward in the contests and tragedies which Louisiana experienced in the second decade from 1865 to 1875. The radical Republicans, no less than the national Democrats, demanded the overthrow of the government formed in 1864. They denied the right of the President to restore the state to the Union by proclamation. They claimed that Congress had that power. They declared that nine-tenths of the white voters were disloyal, and that it was inexpedient to apply for admission into the Union under such circumstances; that their hope was in Congress; and that the premature admission of Senators and Representatives from Louisiana would be disastrous and place them under Confederate rule.

The governor of Louisiana called an extra session of the legislature to meet Nov. 23, 1864. His message was confined to objects of local interest. He favored the election of United States Senators; thus ignoring the election of Hahn and R. K. Cutler by the preceding legislature, in the early part of the year. He was evidently disposed to gratify the re-enfranchised Confederates. Whether he flattered himself that he would be chosen Senator, is not apparent; but if such was his expectation he was doomed to

disappointment, as Randall Hunt and Henry Bozer were chosen. An objection to the election at that time was answered by the statement that Hahn and Cutler had applied in vain for admission. But it was singular logic which led the majority to the conclusion that the Senate would be more ready to admit members chosen by the men who had just laid down their arms as enemies of the Union, than by those who professed to be its ardent friends. The amendment to the United States Constitution for the abolition of slavery was ratified, with a proviso declaring that it conferred no right to legislate on the civil relations of the negroes.

The legislature which met Jan. 22, 1866, passed an act for the election of mayor and other city officers at an earlier date than that established by law. The governor vetoed this act; but immediately both houses passed it over the veto by majorities of more than ten to one. The election was accordingly held March 12, 1866. The voters were required to take and subscribe President Johnson's amnesty oath, of May 29; but no man could vote if excluded by any one of the fourteen exceptions. The mayor, and nearly every city official elected, belonged to the so-called "National Democratic" school of politics — that is to say, to the party which seceded, and fought against the Union. The mayor-elect, John F. Monroe, was temporarily suspended by General Canby, on the charge that he "had uttered rebellious language after the city had been captured by the Federal troops, and that he refused the oath of allegiance." But his disabilities were removed by the order of suspension. On May 15th, Mr. Monroe assumed the duties of his office.

Early in March, the legislature was on the eve of passing a bill for calling a convention to remodel the constitution; but when it had been ordered to be engrossed in the house of representatives, by a vote of nearly three to one, a dispatch from Washington from the commissioners of the state who had been sent to confer with the President, arrested the proceeding. The bill was laid on the table. The President desired that there should be no further agitation on the subject of a convention.

The attempt by the Republicans in 1866, to recall the convention of 1864, was the cause of one of the most wanton massacres on the 30th of July, that has ever disgraced our annals. The constitution framed by that body in 1864 failed to give satisfaction to any party. It was finally repudiated by a majority of those who made it. It was said to be too tame and conservative. It restored to power the intelligent Confederate element. The ex-Confederates denounced it. They declared, truly, that the great mass of the people had no hand in framing it. It failed to please the radicals. It greatly displeased the negroes. It withheld suffrage from men of color. It enfranchised the insurgents. It failed to give satisfaction to the majority in Congress, because, while it restored the Confederates to power, it excluded the negroes from political rights.

The white radical Republicans were the least numerous part of the population, but they were backed by the majority in Congress, and by the whole colored population of the state. Their leaders were in part Northern men. They had belonged to or had followed the Union armies, or were old residents of New Orleans. They were re-enforced by disaffected Confederates, who thought to atone for their recusancy by enthusiastic support of the Union cause. They did this by showing a readiness to take office under the auspices of the "old flag."

It was the outside encouragement, congressional and Northern, therefore, which emboldened the conventionists of 1864 to make the attempt to reassemble, and remodel the constitution and government of the state in the manner proposed. Trembling for their lives, in the midst of a hostile population, among which they could not have remained but for the presence of the United States army, they never would have dared, or dreamed of the bold enterprise, if they had relied on their own strength. And yet, with the colored population added, they seemed to be a majority of the people. They had in their party the timid and vacillating governor, J. Madison Wells, of unsavory fame in the electoral count of 1877; Judge R. K. Howell, of the supreme court; Michael Hahn, the Senator-elect to Congress, and many other notable persons. There was no reasonable ground for their assumed right to reassemble and exercise the authority, once delegated, but now lapsed, of amending the constitution. But the governor and a judge of the supreme court gave their sanction. This was followed by an unwarrantable proceeding on the part of the mayor, to attempt the suppression of the convention,—a most unwise and dangerous movement. His order was to arrest the conventionists. This was revolutionary. The execution of the order, with or without his connivance, was simply a massacre. And the massacre was committed by his police. They marched in three divisions to the hall where the convention was sitting, firing on the unarmed negroes on the streets. The police, aided by a mob, surrounded the building, fired into the windows, broke down the doors, and shot down the unresisting delegates in their seats. The city firemen and other organizations joined in the brutal work, which was only stopped by General Baird, the Federal commander, who at once proclaimed martial law. The attempt of Mayor Monroe to exculpate himself from the crime of premeditated and wholesale murder would have been entitled to some consideration if he had made any effort to stop the massacre; or if his agents, the police, had been brought to condign punishment. But instead of this, not one of them was removed from office, nor even rebuked for excessive zeal in the execution of the order. General Baird, in his letter to Mayor Monroe of July 26, presented the true state of the case in his statement before the convention met, namely, that if the convention had the right to assemble, it should be protected. If it had not that right, then its labors amounted to only a harmless pleasantry, and that the mayor had no right to interfere.

The grand jury of Orleans Parish had indicted the members of the convention. President Johnson had telegraphed to the lieutenant-governor that the military was expected to sustain and not obstruct the proceedings of the courts. This telegram may have emboldened Monroe to take the course he did.

Some battles were fought in the Civil War which were less bloody than this riot. This reference to it would be incomplete without a list of the casualties. The report of Assistant-Surgeon Hartsuff, of the United States Army, after a survey of the field, states that thirty-eight were killed, and 146 wounded; of the latter, eight were members of the convention, nine were white loyal citizens, 119 were colored men, and ten were policemen. There was an abatement of the riotous spirit in Louisiana following this terrible affair. Nothing of note in that way occurred until the state was subjected to the Reconstruction acts.

In 1868, the new constitution, framed in conformity with the requirements of the Reconstruction acts, was ratified by a decided majority. At the same time, Henry C. Warmouth was elected governor. The election passed off quietly. Much of the violence and crime which followed might have been avoided if those who were invested with authority had possessed intelligence and character. But as specimens of the unwisdom and the unscrupulous partisanship which were clothed with authority, the following facts will serve as illustrations: The presiding officer of the senate, Oscar I. Dunn, a man of color, announced at the meeting of that body, that none would be regarded as qualified senators who could not take the test oath,—the "iron-clad," which was prescribed by the act of Congress of 1862. The occupant of the chair in the house, also a colored man, made a similar announcement. Nothing of this kind was required by the constitution under which they were about to organize a state government. On the contrary, that constitution prescribed an oath for members different in language and less exclusive in import. This ruling excluded nearly all the Democratic members, and their names were not called by the clerk. The rulings of these presiding officers were arrogant and impudent usurpations. The usurpers, instead of being impeached, were sustained by the two houses, and the Democratic members were excluded from their seats, until it was announced that General Grant would not sustain this procedure.—He thought the members should be admitted on taking the oath prescribed in the constitution.— The legislature passed an act providing for the appointment of five police commissioners for the city. Governor Warmouth gave three of these important places to colored men. In harmony with these acts, Thomas W. Conway, preacher, politician, and philanthropist, introduced into the legislature a bill for the organization of common schools which should be open to all children between six and twenty-one years of age, "without distinction of race, color, or previous condition"; and, that the

measure should lack no feature calculated to exasperate the white race, attendance on the schools was made compulsory. This measure was not adopted; but it showed the spirit of the Northern men who seemed to be inspired by a purpose of degrading the white people, and of arraying race against race. It was thought to be a sure method of preventing the colored people from falling under the control of the native whites.

The renewal of acts of violence which followed the inauguration of the state government on this basis, and with this spirit dominant in the ruling party, was a natural consequence. In July, information reached the governor from Franklin and other northern counties, of assassinations and outrages in great number. They came with petitions for protection. He submitted the various communications which reached him to the legislature. That body with stupid malignity appealed — not to the President of the United States — but to General Grant for military aid. But the governor was not wanting in intelligence. He vetoed the joint resolution. He assigned the constitutional provision as his reason therefor. A new resolution was introduced and passed by the two houses. It was at once forwarded to the President by the governor. It was accompanied by a letter in which the President was told that 150 men had been murdered in one month and a half; that the Confederates were determined to kill or drive away Union white men and leading colored men; and that menaces were made to terrify the voters. It referred to a sect, known as the K. W. C. This sect had questions and oaths. It was asserted that its object was to intimidate the colored folk, to precipitate a race conflict, and to assassinate leading officers of the legislature. The United States troops were said to be the only reliable protection against this secret sect. This sect had its military organizations. It drilled openly in the streets, and in halls at night. This indicated an impending bloody revolution. It implied ruin to the state. The legislature deprecated the use of the militia, as the excitement was excessive. It asked for two regiments of cavalry, one of infantry, and a battery of artillery. Some of the newspapers denounced these statements as untrue. They said that they were willful radical fabrications. They called for the names of the murdered parties, with the circumstances concerning their untimely taking off.

There is a wide margin of difference between these conflicting statements. Doubtless the truth lies in the middle of them. Riotous demonstrations occurred in the streets of New Orleans, and among the victims was a colored orator who attempted to make a Democratic speech. The United States troops were sent, in response to the call of the legislature and governor. Their presence was doubtless salutary, though not entirely efficacious; for riots continued to occur, attended with the shedding of blood. On Sept. 22, 1868, a riot occurred in New Orleans, under the following circumstances. That being the year of the Presidential election, politics ran high. On the occasion referred to, the colored political clubs, in marching

through the streets, halted in front of a restaurant. Some one inside shouted for Seymour and Blair. This caused an attack upon the house by the colored men, which resulted in the killing of several persons. On the 28th of the same month a serious riot occurred at Opelousas. The editor of the Republican newspaper at that place was whipped, and required to retract statements made in an article which had appeared in his paper. A report got abroad that he had been murdered. Thereupon bands of negroes in the neighborhood armed themselves and marched upon the town. The citizens went out to meet them. A fight occurred. It resulted in the killing of several persons. Two days before, a bloody conflict between the whites and blacks occurred in the parish of St. Bernard. It resulted in the slaughter of a white family, the burning of their residence, and the killing or wounding of several negroes. Notwithstanding these disorders, the Presidential election went off quietly, resulting in a large majority for the Democrats. The state, in spite of disquietude, conspiracies, and outbreakings of violence from factions, was not worse than might have been expected from the local isolation, as well as the pervading taint, which compromise, early and graciously made, might have averted.

Perhaps in no other part of the South was the confiscation act so rigidly enforced as in Louisiana. Millions worth of the property of the absentees was seized and sold. Yet it was stated by Judge Durell, of the United States District Court, that the proceeds of the confiscation sales would not exceed $100,000. A defaulting quartermaster turned over $75 as the total net proceeds of the sales of all the splendid Parisian furniture, gold and silver plate, and the immense quantity of other valuable things taken from the houses of the registered absentees.

Never did a state suffer like Louisiana. It suffered because of the lack of conciliation with firmness. It was the victim of that policy which, as Macaulay teaches, follows the want of grace early tendered. Conspiracies and insurrections, in which small minorities were engaged, and the outbreakings of popular violence, unconnected with any extensive project or any durable principle, should have been repressed with vigor and decision. "To shrink from them is to make them formidable. But no wise ruler will confound the pervading taint with the slight local isolation." These principles the author endeavored to apply to the bill of Henry Winter Davis, in a speech on the 4th of May, 1864. Mr. Davis proposed the one-tenth policy of suffrage in the returning states. It was based on the President's amnesty and negro policies; but five months had then passed, and yet there were seen no signs of thousands of Southern citizens rushing to embrace this amnesty. Unlike the acts of grace granted by kings to their recusant subjects, of which history is full, there was no general taking of the oath, no genuine movement toward restoration, but a fiercer spirit of resistance, produced by the unwise and exasperating policy of the Executive. The for-

giveness offered by the President was deemed a mockery, and its terms an insult. What a delusion to hold out such a Dead Sea apple — luscious to the eye, but ashes to the lip! It was vain to expect the Southern people, in their temper after the war, saddened by loss and irate with revenge, to do what one million and a half of Northern voters would scorn to do. There was no hope of a returning South by such a plan. It was an amnesty which was a juggle, for it pleased no one who was to be reached. It was based on a proclamation which was a delusion, for no one was freed by it whom our armies had not enfranchised. It was the old unsoundness, newly daubed with untempered mortar.

There was one chief defect in the President's plan. The structure was built upon his proclamation of Emancipation. The same defect was observed in the bill of Mr. Davis. That too was based on the policy of forced emancipation. He proposed: "to guarantee to certain states, whose governments have been usurped or overthrown, a republican form of government." This was the title of his bill. It was denied then, as afterwards in Louisiana, first, that the state governments were overthrown; and second, that his plan substituted a republican form. His plan was to appoint provisional brigadier-governors, who were to be charged with the civil administration until a state government should be recognized. It required an oath to the Constitution to be taken, which was very well; but by whom? By one-tenth of the people. That number would be sufficient to construct the new state, whose republican form of government was already dictated to them by the bill; — they "shall" abolish slavery. Other steps were to be taken, and then the new republican state was to be recognized. In some of its features this bill was an improvement upon the rickety establishment proposed by the President; but it was obnoxious to the same objection. It was a usurpation of the sovereignty of the people by the Federal functionaries, and it regarded the old states as forever destroyed. The plans proposed were objectionable, because of the mode of construction and the kind of fabric to be rebuilt. As neither the Emancipation Proclamation nor the Emancipation act could ever be reconciled with the normal control of the states over their domestic institutions, so all oaths to sustain the same were oaths to subvert the old governments, Federal and state. These were the objections then paramount in Congress and in the states. After the discussion, Mr. Davis abandoned his "one-tenth," and wisely substituted the majority idea.

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The Union forces obtained control over a large part of the State of Arkansas in 1863. This result came from the defeat of the Confederates in the battle of Pea Ridge, by General Curtis, in March of the preceding year. The people of the northern counties had but little sympathy with those of the southern half of the state. They possessed comparatively few slaves. There was soon developed among them a repugnance to the secession

movement. There was a desire to be restored to the protection of the Union. But nothing was done towards reconstruction until the beginning of the following year. A spontaneous movement in this direction was made by the people. President Lincoln wrote a letter to Major-General Steele, who was in command at Little Rock, stating that he had received petitions from citizens of the state, asking that an election might be held for governor and other state officers. In this letter the President stated the changes that should be made in the constitution and laws. They were similar to those prescribed for Louisiana. Slavery must be abolished, the freedmen must be protected in their rights, and idleness and vagrancy should be prohibited. This letter was dated Jan. 20, 1864. The details of the President's plan as to the mode of making and counting election returns were subsequently modified, when he ascertained what had already been done by the people. A popular movement began earlier. It was pretended to be based on the Amnesty proclamation of Dec. 8, 1863. A state convention had assembled on the 8th of January, 1864, and inaugurated a provisional government. The convention claimed to represent forty-two of the fifty-four counties. In fifteen counties its delegates had been chosen with some degree of regularity, at the usual election precincts. Other delegates were chosen in public meetings. A constitution adopted by this convention was ratified on January 19. The vote cast was 12,443, of which all except 266 were for ratification. The preamble to the constitution declared that the entire action of the convention of the state, which had assembled in the city of Little Rock on the fourth day of March, 1861, "was, and is, null and void, and is not now, and never has been, binding and obligatory upon the people." Many legislative acts passed during the ascendancy of the secessionists were also declared void. The official acts of justices and others, and the solemnization of marriages were not affected. All debts contracted by the legislature in aid of the Confederacy were repudiated.

In the fifth article, first section, after the abolishment of slavery, it was provided that no male person arrived at the age of twenty-one years, nor female arrived at the age of eighteen years, should be held to serve any person as a servant, under any indenture or contract thereafter made, unless such persons should enter into such indenture or contract while in a state of perfect freedom, and on condition of a *bona fide* consideration received, or to be received, for their services; and further, that no indenture of any negro or mulatto, thereafter made and executed out of the state, or if made in the state, where the term of service would exceed one year, should be of the least validity, except those given in case of apprenticeship, which was not to be for a longer term than until the apprentice should arrive at the age of twenty-one years, if a male, or the age of eighteen years, if a female.

An election was held on March 14, 1864, at which a governor, Isaac Murphy, and other state officers, as well as three congressmen, were chosen.

The constitution was ratified; and the legislature, which assembled April 25th, elected William M. Fishback and Elisha Baxter as United States Senators. In this manner the state government was established under President Lincoln's policy.

On the 14th of April, 1865, the legislature ratified the amendment to the Constitution of the United States, abolishing slavery. An act was passed disfranchising all citizens who had aided the rebellion after April 18, 1864, when the loyal state government was recognized. This act was protested against, as unconstitutional, in that it prescribed qualifications for voters that were not in the state constitution. It was not repealed, but it was declared to be unconstitutional by the supreme court of the state. The counties in which the Confederates had had control were now brought under the jurisdiction of the new free state organization. Soon, its authority was undisputed throughout the state. On the 30th of October, 1865, President Johnson, in a dispatch to Governor Murphy, pledged his sanction and support to the new state organization.

In Arkansas, as in other Southern states, there was great destitution at the close of the war. In May, 1865, the government issued 75,097 rations to the destitute white refugees, who were mostly Union men on their way home; and 46,845 rations to freedmen. This state of things continued throughout the year. Arkansas suffered more than most of her sister states from domestic war among her citizens. Governor Murphy, in a letter to the Rev. I. H. Leard, dated Dec. 9, 1865, said that, unless speedily relieved, many persons would, during the winter, die from the effects of hunger and cold. These needy people resided, generally, in the western part of the state. They were chiefly the widows and orphans of Union soldiers, or the helpless connections and dependents of the aged and infirm, who had been reduced by robbery, or exhausted in means and strength, while flying from their enemies.

The declaration of the supreme court of the state, in December, 1865, that the test oath was unconstitutional, greatly increased the popular vote; but it threw the pronounced Republicans into a small minority. All free white male citizens of the United States, twenty-one years of age, who had been citizens or residents of the state six months, were allowed to vote. At an election for state auditor, in August, 1866, 34,407 votes were cast, of which Miller, Unionist, received 15,241; Fagan, Unionist, 12,690; and Berry, Republican, received 6,476. Only five Republicans were elected to the legislature.

A public meeting or convention of the loyal people of Arkansas was held at Fort Smith in December, 1866. They adopted a petition to Congress for the abrogation of the existing government. They asserted that the secessionists controlled affairs. Congress was asked to "extend to all loyal men the right of suffrage, without distinction of color, except Indians not taxed." This convention was small and by no means enthusiastic. It was divided

in sentiment. It was composed in part of men of the class who are prone to be "strong on the strong side," and who had distinguished themselves in bygone days by their zeal in the Confederate cause.

On the 21st of January, 1867, Governor Murphy sent to the senate his veto of a bill "to provide for the support of wounded and disabled soldiers, and for the support of indigent widows and children of deceased soldiers, and for the relief of indigent families of this state, and to furnish artificial limbs for maimed soldiers, and for other purposes named." This title might leave the impression that all wounded and disabled soldiers, and all indigent families were to be provided for; but the first section of the act was more specific. It appropriated "ten per centum of the revenue of the state annually, to constitute a fund for the relief of destitute, wounded, or disabled soldiers, not otherwise provided for by the United States Government, and for the support of indigent widows and children of deceased soldiers, not otherwise provided for by the United States." But the governor vetoed it. He assumed that the legislature designed by this act to honorthe bravery and devotion, and reward the sufferings of those who fought against the government of the United States in the late rebellion, and also against the present state government. The bill, nevertheless, was passed over the veto, by a vote of twenty-one to one in the senate; and by sixty-four to seven in the house of representatives.

Early in February, 1867, the legislature passed "An Act to declare the rights of persons of African descent." This act was by far the most liberal and just of any passed by the Southern legislatures, prior to permanent reconstruction under the acts of Congress. One of its principal features appertained to contracts. Persons of color were authorized to give evidence; to inherit, purchase, lease, sell, hold, convey, and assign real and personal property; to make wills and testaments; and to have full and equal benefit of the rights of personal security, personal liberty, and private property, and of all remedies and proceedings for the enforcement and protection of the same, that white persons then had. It enacted that they should not be subject to any other or different punishments than those prescribed for white persons; and that all laws should be applicable to all persons, without distinction of race or color. It repealed all laws relating to colored people, inconsistent with these provisions. The marriage relation, with all its legal obligations and rights, was established for the freed people. All who had lived together in that relation prior to emancipation were to be regarded lawfully married, and their children were made legitimate.

The difficulty with those opposed to this act was the clause giving to negroes and mulattoes the same right to testify in the courts that white persons possessed. In other words, it allowed them to testify in cases where white persons alone were concerned. It subjected people of color to the same pains and penalties, and to no others, for crimes and breaches of the law,

that white persons were subject to for like offense. It was among the last acts on the subject passed by any Southern legislature, under the temporary reconstruction which took place on the plans proposed by Presidents Lincoln and Johnson. It was for that reason more liberal than those which preceded it. The leaders of public sentiment in Arkansas had begun to understand the real temper of the North. They appreciated the necessity of conforming to it more nearly than was at first deemed essential. But when they became convinced that the popular power, the power behind the throne, was greater than the throne, they began to conquer, one by one, their prejudices. It was asserted that the legislature, by these acts, was prompted solely by a desire to legislate for the best interests of the white inhabitants of the state. No hopeful sentiment about the negro inspired these proceedings. It was in the same spirit that the editor of the leading journal of the state called upon the planters to make "fair, but stringent contracts with the freedmen." "Are they not," said the journalist, "our principal dependence? Must we not do the best we can with them, until such time as an increase of white laborers shall come into our state, and enable us to do without them? Then the high estimate which they now place upon themselves will, by competition, be brought down, and the question with them will not, as now, be 'who shall I work for?' but, 'who will employ me?'" This sentiment manifests as little acquaintance with the principles of political economy as it does of regard for the welfare of the laboring classes, white and black. For the hope of drawing white laborers to the state in order to reduce wages by competition with negro labor was utterly fallacious. Are not the countries where the attractive forces of immigration are the most strenuous, those in which wages are high?

In February, 1867, the legislature passed "an act of pardon and amnesty" to all persons who, at any time after the sixth day of May, 1861, and before the fourth day of July, 1865, had committed any crime or misdemeanor against the State of Arkansas, rape only excepted, and who had not been convicted thereof before the passage of the act. This act of amnesty was intended for the benefit of outlaws on both sides, who had committed murders and other crimes. It was very charitable. During the year 1867, almost to its close, Arkansas had more or less of distraction. The military were not hospitably entertained, as may be inferred from the reprimand by Gen. E. O. C. Ord, then chief commander, of Major Pierce, for his seizure of a newspaper which had criticised the soldiery. The registration of voters and the apportionment of delegates went on until the convention was called. Its delegates were nearly all radicals. Excesses threatened to engulf the state.

In December, 1867, the Democracy of Arkansas are aroused. That party declares for a white man's government. The convention meets on the 7th of January, 1868. The state continues to degenerate, under bad administration, until Congress takes notice. The Poland Committee are sent to the

rescue. Then arises in Arkansas a man of mark! The present Attorney-General of the United States, Augustus H. Garland is the man. Whether it is because the writer has been associated with this distinguished lawyer upon questions concerning the test oaths, or whether because of congenial temperament and long friendliness, it is *con amore* that this chapter concludes with a brief narrative of the life and merits of Augustus H. Garland. He fills a distinguished place in the history of the State of Arkansas, of which he has been Senator. He is destined to fill a larger place in the history of the country under the new Administration, of which he is the legal adviser. He was born on the eleventh day of June, 1832, in Tennessee. He was educated at Bardstown, Kentucky, a famous seat of learning at that time. During his educational nonage he had such influences as are associated with the names of Charles A. Wickliffe, James Guthrie, Felix Grundy, and "Ben." Harden. His habit of steady application, added to the keenness of his analysis, gave him rank along with the best lawyers of the Senate of the United States. He is modest, unassuming, sociable, and full of anecdote and humor. He has a square and solid frame, and although fifty-two years of age, looks like a more youthful man. He is evidently a man who has communed much with nature. He has a frank simplicity of character which is charming.

The incident which brought him before the public dates from a decision of the Supreme Court of the United States in 1866. It involved the constitutionality of the test oath in Congress, which the author of this volume, with the aid of Senator Garland, has recently had repealed in some of its most obnoxious features. The iron-clad oath act was approved July 2, 1862. It prescribed that before any person could enter upon the duties of any office of the United States Government, he should take and subscribe that oath. A supplemental act was passed in 1865. Its provisions were extended to attorneys of United States courts. As stated in a former chapter of this volume, Senator Garland had been an attorney and counselor of the court before the war, in 1860. He was forbidden by the act of 1865 to practice after the war was over, having been a Senator in the Confederate Congress. Engaged in the discussion in the case and others of a similar nature at the same term of the court, were such eminent lawyers as Reverdy Johnson, Matt. H. Carpenter, Attorney-General Speed, Henry Stanbery, and Jeremiah S. Black. But for forensic and constitutional acumen, the (then) young lawyer bore away the palm, in his own case about the test oath. His argument was a masterly elucidation of the law, and the precedents; and although four of the judges dissented from the opinion of the court,—which sustained three out of four of the points made by Mr. Garland,—they gave him unstinted praise for his argument. But it was as governor of the State of Arkansas that Mr. Garland won his best trophies. Although he had been a Bell and Everett elector, and had made the fight for

the Constitution, the Union, and the enforcement of the laws,—when the secession ordinance of his state was adopted, he went manfully, though mournfully, with his Southern people. He was chosen to the provisional Congress which met at Montgomery, Alabama, in May, 1861. He assisted in framing the constitution of the Confederate States. This preliminary experience gave emphasis to his wise and sage advice when, in 1874, he overthrew the carpet-bag rule in Arkansas. It was his effort before the Poland Committee of the House which secured the majority report. When he became governor of Arkansas, he found the treasury bankrupt, and the state discredited. Its scrip sold for twenty cents on the dollar. It was not without a dire contest with President and Congress, and the Republican party in his state, that all differences were composed, and the state was lifted out of the black slough of ruin. Without opposition, he was preferred for the United States Senate. As was both natural and proper he became a member of the Judiciary Committee. In the line of his profession, with direct and forcible language and thought, he has defended in various cases involving the new Amendments and Civil Rights bill, the rights of his section under the Constitution. It has been claimed that he is a latitudinarian in his construction of the Constitution, and that he believes in the preamble as the "blanket clause" of the Constitution. Although he may not have forgotten some of his old Whig or Federal rules and ideas, he has acted with the Democratic party in the Senate, and is an active member of the Cabinet of the Democratic Administration. He belongs to no ultra school in his construction of the Constitution. He believes in what he calls the common sense interpretation of that instrument. He has never failed to display on every opportunity high executive ability, and in his speeches and opinions he has patiently, and with keenest observation and perspicuity, pursued a clear and brilliant order of argument, that has made his logic synonymous with rhetoric set on fire;—which is the true definition of forensic eloquence.

CHAPTER XXIV.

THE FREEDMEN'S BUREAU.

ACT CREATING IT — ITS PURPOSES AND SCOPE — SUPPLEMENTARY ACT — PRESIDENT JOHNSON'S VETO OVERRULED — HIS OBJECTIONS TO THE PROPOSED LAW — LARGE APPROPRIATIONS FOR THE BUREAU — THE COMMISSIONER AND HIS SUBORDINATES — CHARGES PREFERRED AGAINST THE COMMISSIONER IN THE HOUSE OF REPRESENTATIVES BY FERNANDO WOOD OF NEW-YORK — INVESTIGATION BY A COMMITTEE OF THE HOUSE — MAJORITY AND MINORITY REPORTS — ERECTION OF THE HOWARD UNIVERSITY — THE BARRY FARM — DISASTROUS ATTEMPT TO ESTABLISH A COLORED COLONY ON IT — FAILURE OF THE FREEDMEN'S BANK — DISASTROUS CLOSE TO THE WHOLE SCHEME.

A HISTORY of reconstruction, which failed to present the leading features of the Freedmen's Bureau and the character of its operations, would be incomplete. The measure for the creation of that bureau originated during the first session of the Thirty-eighth Congress. It became a law on the 3d of March, 1865. It was entitled, "An Act to establish a bureau for the relief of freedmen and refugees." It provided for such bureau being established in the War Department, to continue "during the present war of rebellion and for one year thereafter." The control of all abandoned lands in the states recently in rebellion, and of all subjects relating to freedmen and to refugees from the Confederate States, or from any district of country embraced in the territory covered by the operations of the army, was committed to this bureau under regulations to be prescribed by its head and to be approved by the President. The commissioner was to be appointed by the President at a salary of $3,000 per annum. He was required to give bond in the sum of $50,000.

The Secretary of War was authorized by this law to issue provisions, clothing, and fuel for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their families. Assistant commissioners were to be appointed for each of the ten insurrectionary states.

They were to aid in the execution of the act. Officers of the army might be assigned to duty under the act. The assistant commissioners were required to report quarterly to the commissioner. He was required to report annually to the President before the commencement of each session of Congress.

The commissioner was authorized, under the direction of the President, to set apart for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary states as were abandoned, or to which the United States Government had acquired title by confiscation, sale, or otherwise. Of these lands a tract of not more than forty acres might be assigned to every male citizen, whether refugee or freedman; and the person to whom it was so assigned was to be protected in the use and enjoyment of the land for the term of three years. He was to pay an annual rent not exceeding six per centum of the value of the land, as appraised by the state authorities for the purpose of taxation in the year 1860. In case there was no such appraisal, then the rental was to be based upon the estimated value of the land in that year. This was to be ascertained in such manner as the commissioner might prescribe. At the end of such term, or at any time during the term, the occupant of any parcel so assigned might purchase the land and receive such title thereto as the United States Government could convey, upon paying for the land its value as so ascertained.

In February, 1866, Congress passed an act to amend the foregoing act. It provided that this legislation should continue in force, not for one year after the close of the war, as in the original bill, but until otherwise provided by law. It extended its operations to refugees and freedmen in all parts of the Union. Provision was also made for dividing the districts into sub-districts, and for placing all persons connected with the bureau under military authority. The Secretary of War was empowered to order the issue of provisions, clothing, fuel, and other supplies, including medical stores and transportation, and to afford such aid, medical or otherwise, as he might deem needful for the immediate temporary shelter and supply of destitute and suffering refugees and freedmen, their wives and children. None were to be deemed destitute and suffering, who, being able to find employment, could by proper exertion, avoid such destitution.

The President was authorized to reserve from sale or settlement under the homestead or pre-emption laws, and to set apart for the freedmen and loyal refugees, male and female, unoccupied lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas. They were not to exceed in all, three millions of acres of good land. These lands were to be assigned in parcels not exceeding forty acres each to the loyal refugees and freedmen, who were to be protected in the enjoyment of the same. They were to pay an annual rent, to be agreed upon between them and the commissioners of the Freedmen's Bureau. At their option the renters might purchase the lands at a price to be agreed on. The occupants of land, under General Sherman's

field order, dated at Savannah, Jan. 16, 1865, were to be protected in the enjoyment of the same for three years, against the claim of the former owners. Suitable buildings were to be erected by the bureau for asylums and schools. It was made the duty of the President to extend military protection to the freedmen in all cases in which any state or local law or regulation denied them equal rights with white people. It was made a misdemeanor, punishable by fine and imprisonment, for any person, under color of any state or local law, to subject any freedman to the deprivation of any civil right secured to white persons. The officers of the bureau were authorized to take jurisdiction of all such cases.

This supplementary act was met by the veto of President Johnson, dated Feb. 19, 1866; but it was passed by both houses two days subsequently, notwithstanding the objections of the President, by more than the requisite two-thirds majority.

Preliminary to the statement of his constitutional objections to the bill, the President suggested that there was no immediate necessity for the measure, inasmuch as the original act had not expired; as that act conferred extensive powers; and as further experience of its effects was needed as a guide to additional legislation. The President expressed the strong desire which he shared with Congress, to secure to the freedmen the full enjoyment of their freedom and property; but he suggested that the bill contained provisions which were, in his opinion, at war with the Constitution. It proposed to establish, by authority of Congress, military jurisdiction over all parts of the United States containing refugees and freedmen, and to extend the existing temporary jurisdiction of the Freedmen's Bureau, with greatly enlarged powers, over those states in which the ordinary course of judicial proceedings had been interrupted by the rebellion. In those eleven states the bill subjected any white person who might be charged with depriving a freedman of civil rights or immunities, to imprisonment or fine, or both, without, however, defining the "civil rights or immunities" that were thus to be secured to the freedmen by military law. This military jurisdiction was also extended to all questions that might arise respecting contracts. The agent who was thus to exercise the office of a military judge might be a stranger entirely ignorant of the local laws and exposed to errors of judgment. This exercise of power over which there was no legal supervision, by a vast number of agents would necessarily be attended by acts of caprice, injustice and passion. The trials originating under the law were to take place without the intervention of a jury and without any fixed rules of law or evidence; and the punishment would be, not what the law declared, but that which a court-martial might think proper. From these arbitrary tribunals there was no appeal provided, no writ of error to any of the constitutional courts of the country.

The President also objected to the bill because it had no limitation in

point of time, but would form a part of the permanent legislation of the country. He could not reconcile such a system of military jurisdiction with the provision of the Constitution that "no person shall be held to answer for a capital or otherwise infamous crime, unless upon a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger," and that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state or district wherein the crime shall have been committed." This bill proposed, he said, to set aside all the safeguards which experience and wisdom had established as securities for the protection of the innocent, the punishment of the guilty, and the equal administration of justice. Such a measure could only be justified while war continued. There was at that time no part of the country in which the authority of the United States was disputed, and it was impolitic, as well as unconstitutional, to disturb commerce, credit, and industry by declaring to the world that the United States was still in a condition of civil war. He argued, that although, during the war many refugees and freedmen had received support from the government, it had never been intended that they should thenceforth be fed, clothed, educated, and sheltered at public expense. On the contrary, the idea on which the slaves were assisted to freedom was, that on becoming free, they would be a self-sustaining population. Any legislation that implied that they were not expected to attain a self-sustaining condition, must necessarily have a tendency injurious alike to their character and their prospects.

The President also pointed out, in further detail, that the power conferred by this bill of appointing agents and clerks for every county and parish in the late insurrectionary states would involve an immense addition to the President's patronage. The annual expenditure was $11,750,000 under the original bill. It would probably be doubled by the one under consideration. The maintenance of military rule in the South would require the presence of troops there. Thus, large appropriations would become necessary to enforce military jurisdiction. In addition to these objections, the President pointed out that the fifth section of the bill proposed to take away land from its former owners without any legal proceedings being first had. This was contrary to that provision of the Constitution which declares that no person shall be deprived of life, liberty, or property without due process of law. He urged other objections to the bill, based on considerations of the permanent welfare of the freedmen themselves and of the general good of society. It is difficult, indeed, to imagine how a candid mind could resist the force of the President's objections to the bill, founded on its infractions of the Constitution and its invasions of the liberty of the people; but nevertheless his objections were overruled, and the bill became a law. Various other amendments to the law were passed from time to time, and large appropriations to

defray the expenses of maintaining the bureau and its wards, the freedmen and refugees, were made at every session for several years afterwards. Thus, in the army appropriation bill for the year ending June 30, 1867, about seven million dollars was appropriated for those purposes. This included these items: For commissary stores, $3,106,250; for transportation, $1,320,000; for clothing for distribution, $1,170,000; for repairs and rent of school houses and asylums, $500,000; for medical department, $500,000; for salaries of assistant and sub-assistant commissioners, $147,500; for salaries of clerks, $82,800. Like appropriations were also made on the army appropriation bill for the succeeding fiscal year, some of the items being largely increased, as, for instance, the item of fuel from $15,900 to $200,000. On the other hand, the appropriation for commissary stores was reduced from $3,106,250 to $1,500,000. This shows that the number of dependent freedmen had very largely diminished within the year. The item for transportation was reduced from $1,320,000 to $800,000. Inasmuch, however, as nearly every negro and refugee who desired to return to his original home must have done so long before this item was available, it is not easy to see how it could have been honestly expended.

Rumors reflecting upon the administration of the bureau had indeed been afloat ever since its organization. The commissioner, Gen. Oliver O. Howard, was a man more remarkable for piety than for practical talent. He did not possess high administrative abilities. He had not had the experience and training which would qualify him for the efficient discharge of these peculiar duties. His assistant commissioners and the subordinate bureau agents were, like himself, appointed almost without exception from officers of the army; and some of them acquired the reputation of making use of their opportunities more for the sake of promoting their own fortunes than for aiding and protecting the colored people. Many of them were said to have acquired landed estates in the localities where they were stationed, and to have cultivated them cheaply and profitably with the negro labor which they could largely control. Others were reported as being in the receipt of large allowances from planters for aid rendered in preventing the negro hands from abandoning field work. Many others ran for political positions. By the help of the colored vote they were elected to Congress, to the state legislatures, and to various state and county offices. All this was calculated to excite, and did excite, a very bitter feeling of distrust and animosity against the agents of the bureau in all the Southern States, where the scornful term of "carpet-bagger" was applied to them in common with other political adventurers from the North.

The commissioner himself was far from escaping suspicion. He underwent severe criticism, particularly in connection with the establishment, in a suburb of Washington, of a college for the higher education of colored youth, called after himself, the Howard University. Attention was attracted to

certain large real estate transactions in and near the city of Washington. Dissatisfaction at length found a mouth-piece and sponsor in the person of a distinguished member of Congress from New-York—Fernando Wood. On the 6th of April, 1870, Mr. Wood rose in his place in the House and offered a resolution charging, "on information and belief," that Gen. O. O. Howard, Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, had been guilty of malversation and dereliction of duty, and calling for an investigation.

The allegations against General Howard were formulated under twelve distinct heads. The most important of them were: that he had, improperly, and without authority of law, used more than $500,000 of the funds of the bureau for the purchase of lands and the erection of buildings for the Howard University; that portions of such lands had been disposed of improperly to persons of his own family and officers of his own staff; that bonds of the First Congregational Church, of Washington, had been received by him in payment for a portion of these lands so disposed of,—which bonds had not been redeemed or paid; that the buildings had been erected of unfit material, furnished by the American Building Block Company, in which company himself, his brother, and other officers of the bureau were interested as stockholders; that the contracts for the construction of these buildings required this material to be used, thus preventing competition; that the material was so unsuitable and worthless that parts of the building had fallen down in consequence of its use, and that other parts had been repaired and rebuilt, at an expense of several thousand dollars; that lumber belonging to the government had been dishonestly used and appropriated by this patent brick company; that the commissioner had paid from the funds of the bureau over $40,000 in aid of the construction of the First Presbyterian (Congregational) Church in Washington, taking the church bonds in return, which bonds he had either returned in his accounts as cash on hand, or had sent South for the purposes of the bureau; that he had, also, advanced a large sum from the funds of the bureau to the Young Men's Christian Association, of Washington, taking the bonds of that association in payment, which bonds had been sent to Tennessee to help the freedmen's schools in that state; that he had been interested in the purchase of a farm of over three hundred acres, near the insane asylum, for which the public funds and other property had been used; that buildings were constructed thereon of lumber belonging to the government, which buildings were then let or sold to freedmen at exorbitant prices; and that himself and his brother, Charles Howard, were personally interested in the transaction as a private business speculation; that he had exercised his office with extravagance and negligence, and in the interest of his family and intimate friends; and finally, that he was one of a "ring," known as the "Freedmen's Bureau Ring," which, through connections and influences with the freedmen's savings

banks, and freedmen's schools of the South, favored the political machinery of a party in the Southern States; and that the official authority and power of his bureau had been exercised for personal and political profit.

Mr. Wood's original proposition was, that the investigation of the charges made by him should be carried on by the Committee on Freedmen's Affairs. This was composed wholly of Republican members; but it was thought more appropriate to refer the matter to the Committee on Education and Labor. It accordingly took that direction. This committee was composed of eight Republicans and two Democrats, its chairman being Samuel M. Newell, of Tennessee. The magnitude of the investigation to be entered upon was manifest from the fact that the latest annual report of the bureau showed the total expenditure from its organization down to that date (August, 1879), to have been, in cash, over eleven million dollars; or, including subsistence and stores, over thirteen and a half millions. This was exclusive of the value of abandoned lands and houses used by the bureau. It was also exclusive of some three million acres of public lands.

The investigation occupied several months. It attracted the attention of the press and country to an unusual degree. Both sides were represented by counsel. It was claimed on the part of the prosecution that, through the partisan rulings of the majority of the committee, much relevant and important testimony was excluded. Nevertheless, a sufficient array of admitted or incontrovertible facts was brought forward to enable the minority of the committee to claim that many, if not all, of the charges brought forward by Mr. Wood were fully substantiated by the testimony. The report of the majority of the committee, on the other hand, was a complete exculpation of the commissioner, and a eulogy of himself and his associates. The testimony, however, has gone into the permanent records of the country. It will, in the days to come, confirm the objection made by the author and others in Congress, to such an agency as was created by the Freedmen's Bureau. It furnishes valuable materials for the student, or historian, of the reconstruction period of American history; and to the philosopher, it will illustrate the unfitness of the Federal Government, or its officers, to become the administrators of an eleemosynary fund. It will show that under a written organic law, of granted powers with strict construction, the last place for charitable trusts, is our Federal system and its agencies. It is not within the scope of this work to enter into the minute details developed in this investigation. A brief glance at some of the more salient points will show the good sense, and good law which inspired President Johnson's veto. The first charge — that of using half a million dollars of the funds of the bureau for purchasing the lands and erecting the buildings of the Howard University — was not disputed; but the act itself was justified and commended by the majority of the committee. And yet, it was certainly an expenditure of very questionable propriety. It was made at a time when the most imperative needs of the

homeless and naked freedmen demanded shelter and plain, warm clothing, and when their children could not obtain even the first rudiments of education. The Freedmen's Bureau was created for the avowed purpose of providing for the wants of the more destitute freedmen and refugees. It was a gross and palpable misapplication of its fund to apply any portion of it, and particularly so large a portion, to the erection of pretentious university buildings. No such provision had ever been made by the United States Government for the education of other classes of citizens, except in the case of army and navy officers. The misapplication of the freedmen's fund to this use was as gross as would be that of any other charity fund, when applied to the erection of palatial school buildings.

The purchase of several squares of land in the city of Washington by General Howard, Senator Pomeroy, of Kansas, and John R. Evans, of Washington, trustees of the Educational fund, which was a branch of the Freedmen's Bureau, and the erection thereon of seventy-six tenement-houses for occupation by colored families, was another rather unfortunate exercise of judgment in the use of the fund The aggregate cost of this enterprise was about $124,000 The reason assigned for it was, that there were 33,000 destitute freedmen in the city who were about to be turned out of the old condemned barracks and other temporary buildings which they had been occupying; but the accommodations thus provided would only furnish shelter to some 1,300 persons. The remainder of the 33,000 persons were literally left "out in the cold." Besides, the bureau had at its disposal 3,000,000 acres of the public lands. On these it should have settled the freedmen. Ample funds to transport them were at their disposal. Would not that have been a wiser course than trying to establish these poor colored people at Washington? It was, therefore, quite natural that the minority of the committee, at least, should regard the real estate speculation with some suspicion. The majority of the committee, however, failed to see anything in it that was not proper and prudent.

Another real estate transaction of much larger proportions, is of still more questionable propriety. It received attention. This was the purchase of what was known as the Barry Farm. This farm was a tract of about three hundred and seventy-five acres adjacent to the government insane asylum. It was within a mile from the city limits. The motive assigned for the acquirement and settlement of this property was a philanthropic one. The plan was, that the farm might be cut up into small homesteads for colored families, which they could acquire in ownership on the installment principle. It was accordingly mapped out into small holdings. These were sold on a graduated scale of prices, ranging from $125 to $300 per acre. These prices were made so as to cover, as it was said, the original cost, which was $52,000. The chief quartermaster of the bureau furnished to the acquirer of each of these lots, lumber to the value of $70, for the construction of a dwelling-house. They

were, like the houses in Sir Thomas More's Utopia, to be built in all their appointments according to a uniform plan. Thus the little colony was started. For a year or two the plan promised to be a moderate success; but the negroes soon became discouraged. The land consisted for the most part of gravelly, precipitous hill-sides, of no possible value for farming or gardening purposes. Employment at fair wages was hard to be got in the city or neighborhood. The payment of the installments became irregular, and when it ceased, the payments already made were forfeited. The dwellings began to fall into dilapidation and abandonment; and up to the present day, the progress of decay, poverty, and ruin in this ill-fated negro colony has been regular and uninterrupted. It was this enterprise on the part of General Howard and his associates that was the subject of the most unfavorable comments by the public at large. It was very severely condemned by the minority of the committee; but the majority of the committee saw in it nothing deserving of censure or disapproval.

The operations of the bureau and its officials in the Southern States were not examined, in this investigation. If they had been, the developments might have been even more disgraceful than those which were actually brought to light. The impression made on the public mind by the exposure of these facts was unfavorable to the bureau, its management, and its officers. Soon afterwards General Howard was assigned to army duties. The Freedmen's Bureau ceased to exist. The failure of the Freedmen's Bank, in which the same loose business methods were practiced, and in the management of which many of the officials of the bureau were more or less connected, gave the *coup-de-grâce* to this politico-philanthropic scheme. It had its origin chiefly in sectional bitterness and pseudo humanity. Its main motive was a desire to perpetuate the existence of the Republican party; and its close was appropriately attended by an ignominious failure of its political designs, and by the spoliation of the poor, industrious colored people of the South and of the District of Columbia, whose hoardings, to the amount of several million dollars, had been entrusted to the Freedmen's Savings Bank, and its branches in the Southern States.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA.

CHAPTER XXV.

KU-KLUX OUTRAGES.

RESISTANCE TO RECONSTRUCTION MEASURES — INTIMIDATION AND TERRORISM IN THE SOUTH — PREVALENCE OF LAWLESSNESS — SECRET SOCIETIES — THE KU-KLUX KLAN — VIRGINIA AN EXCEPTION — GENERAL FORREST'S TESTIMONY — STRENGTH OF THE KU-KLUX ORGANIZATION — ITS MODE OF OPERATIONS — HISTORY OF OUTRAGES IN NORTH CAROLINA — THE KIRK-BERGEN REBELLION — DISREGARD OF WRITS OF HABEAS CORPUS — IMPEACHMENT OF GOVERNOR HOLDEN — PARTISAN AND INCOMPETENT JUDGES — INCENDIARY ADDRESS OF REPUBLICAN MEMBERS OF THE LEGISLATURE — CAUSES OF THE LAWLESSNESS.

ONE of the capital offenses of the Republican party during the first few years after the war, consisted in the attempt to rule the South and their elections by the military power. They forgot the teaching of Mirabeau, that bayonets are too often the only remedy applied to the convulsions of the oppressed, and that they never establish anything except the peace of terror and the silence of despotism. Those who have no faith in the discriminating judgment of the people naturally regard them as the furious herd to be held in check. They forget that they are always quiet and moderate when free, and violent and unruly only under those governments which systematically debase them, in order to have a pretext to despise them. This teaching of Mirabeau, among other civil lessons, had no place in the ethics of Congress. There was nothing of wisdom spoken to justify the obnoxious and forceful laws which kindled anew the coals of contention. Even members of Congress, after the war was over, cried out for an army again, to march against the vanquished Southern people. Philippics were hurled, based upon thousand-tongued rumor, against secret organizations in the South. The Ku-Klux secrecy was the pretext for these cries. No one undertook or undertakes to justify the Ku-Klux system of repression. There are reasons higher than ordinary reasons why efforts should have been made to remove the causes or the occasion of such secret associations rather than to remove their effect. The conduct of the oppressed Southern people aroused the spirit of retaliation in the minds of those who

after the war sought to establish martial law, and illegally to suspend *habeas corpus*, and who forgot that when laws are violative of the Constitution they lead to rapine and murder. More heinous is crime when done under the guise of law. They forgot what Mackintosh had said, that the massacres of war, the murders committed by the sword of justice and the solemnities which invest them are disguised; but the wild justice of the people is a naked and undisguised horror. Its wildest motion awakens all our indignation, while murder and rapine, if arrayed in the gorgeous disguise of acts of state, stalk abroad with impunity. Force is the antithesis of freedom. The bills introduced in Congress in 1871 and thereafter were bills of force. They were in restraint of liberty. According to Buckle, all such bills are inimical to civilization. They are in flagrant derogation of the idea, that society can prosper without being watched by the state at every turn. The municipal spirit of our laws was set aside by the force bill and other measures in connection with the legislation of 1870, '71 and '72. Such laws were the very draff and offal of force and change, when force and change were accounted the predecessors of events, and when barbarism was the consequent condition. The famous force bill, in April, 1871, was a partisan movement. It might as well have been at once a bill to appoint a dictator. It was copied after the policy of the Marats and Robespierres, when they thundered their red evangel in the club and in the assembly. It was based on the clamor about assassinations in the South. It was intended to arouse the turbulence which was begotten, in order to be charged upon the opposite party. After many investigations by the House this vindictive legislation was proceeding without substantial proof. Such legislation had failed for six years to do anything else than to squander revenue and create debts, to feed vampires and organize janissaries, to organize negro militia and military governments. The same spirit made amendments to the Constitution and had them adopted under duress. It exercised clemency only to add renegades to its recruits. The fomenters of these troubles were not satisfied with the bills on the statute-book, which were strong enough to outrage principle and threaten the citizen. They were not satisfied with the pains and penalties of such bills, but they kept public opinion continually aroused by attempted Federal legislation to make a discontented South, out of which might arise their future accession to power and continuance in its enjoyment.

It would have been contrary to the experience of mankind, and an exception to all the teachings of history, if the social and political revolution which the results of the war had imposed on the states then recently insurgent had gone into operation peacefully, harmoniously, and successfully. It was impossible for such to be the case. The transition was from a state in which the superiority and domination of the white race over the colored race existed unquestioned for centuries. It was to a condition of things

in which the most prominent whites were disfranchised and deprived of the right to hold public offices. Their late slaves were enfranchised, and the judicial and other offices were largely filled by dishonest and unfriendly strangers from the North. What was worse still, many of these places were filled by ignorant and brutal negroes. The transition was too sudden and violent. It was hard to submit to it quietly. No people, least of all such a proud and intolerant people as that of the South, could see their local governments transferred from their own hands into the hands of their former slaves without being goaded into violent resistance. This resistance took the form, in most of the Southern States, not of armed opposition to the Federal or the state governments, but of organized intimidation and terrorism. It was directed against the colored people and against their white allies and leaders. It made an objective point of the agents of the Freedmen's Bureau, ministers of the gospel, and school teachers, — all adventurers from the North, or men who had, in quest of fortune, immigrated into these states. All of these classes were regarded as public or private enemies. They were designated by the opprobrious title of "carpet-baggers." The history of these outrages fills many volumes of reports made by joint, and separate committees of the two houses of Congress. It is from these volumes, from reports of military commanders in the South, and from other official documents, that the following epitome, exhibiting the lawlessness that prevailed in the Southern States during the second decade between 1865 and 1875, is made. These documents are so full of the details of crime and violence, and are so voluminous, that it is exceedingly difficult to select from them, or to convey a correct idea of their revelations.

Very soon after the close of the Civil War, almost as soon as the Reconstruction acts were begun to be put in operation, secret societies were organized in various states of the South. Their object, either secret or avowed, was to prevent the exercise of political rights by the negroes. These societies took various names, such as "The Brotherhood," "The Pale Faces," "The Invisible Empire," "The Knights of the White Camellia"; but all these were finally merged into, or compounded with, the formidable and dreaded society denominated the "Ku-Klux Klan." Their acts of lawlessness and cruelty have passed into local and congressional history as "Ku-Klux outrages."

The State of Virginia was a remarkable exception to the other states in its exemption from crimes of this character; while the two neighboring states of North Carolina and Tennessee furnished, perhaps, more material for investigation into Ku-Klux outrages than any other portion of the South. This barbarous and bloodthirsty organization is said to have originated in 1866.

There is no doubt that the Ku-Klux Klan was organized at first only to scare the superstitious blacks. It is true that it arose out of the frivolities of

some young Tennesseans. Horrid tales were told to frighten the negroes from roaming about and pilfering. The testimony before the committee on that subject, of which the writer was a member, showed that they daily visited houses and talked their foolish talk; that they were "mummicking about,"—whatever that means. They carried a flesh bag in the shape of a heart, and went about "hollering for fried nigger meat." One of the Klan, for instance, represented that he had been killed six years before at Manassas, "and since then some one has built a turnpike over his grave and he has to scratch like h—l to get up through the gravel." One Ku-Klux carried an India rubber stomach, to startle a negro by swallowing pailfuls of water. There is no doubt that political reasons had their influence after the Ku-Klux were under way. They were a disfranchised body and did not intend to submit to such laws. Is not here the secret of their beginning? They justified their orgies, their names, and their conduct on political grounds. The worse the government, the worse the outrages. The South was sparsely populated. Public opinion, consequent on subjugation and the breach of Federal faith, was much inflamed. Their rulers gave them an example in lawlessness, and produced the temptation to do in the dark what could not be found out.

Such, at least, is the account given by the Confederate general, Forrest. In his testimony before the joint select committee of Congress, in 1871–'72, he stated that he had joined one of these secret societies. His purpose was to suppress it, in the interest of peace. This "order" bore the title of "Pale Faces"; but it was only designated in its construction and by-laws by the sign of the three stars. It was organized for self-protection. It was intended as an offset against the "Loyal League," into which colored men were inducted by their white local leaders. General Forrest explained the reasons and objects of these secret organizations among the whites of the South to be the insecurity felt by the Southern people; the fact that Northern men were coming there and forming these Loyal Leagues; and the fact that night meetings were being held by negroes who were becoming very insolent, and by whom many outrages, particularly against virtuous women, were being perpetrated, without legal punishment. There was a great deal of insecurity in the country, he said, and the organization that he spoke of was gotten up to protect the weak. It had no political motive.

This may not have been the original design of these secret, oath-bound organizations. Certain it is, that they soon came to be made use of, in the most arbitrary, cruel, and shocking manner, for the furtherance of political ends, and for the crushing out of Republicanism in the Southern States; to which party the colored people were almost unanimously attached. The crimes and outrages narrated in these pages had their origin, almost exclusively, in political causes, — in the effort on the part of the whites to set at naught the rights of suffrage guaranteed to the negroes, and to exclude

from Federal, state, county, and local offices all persons whose reliance for election to such offices was mainly, if not altogether, on negro votes.

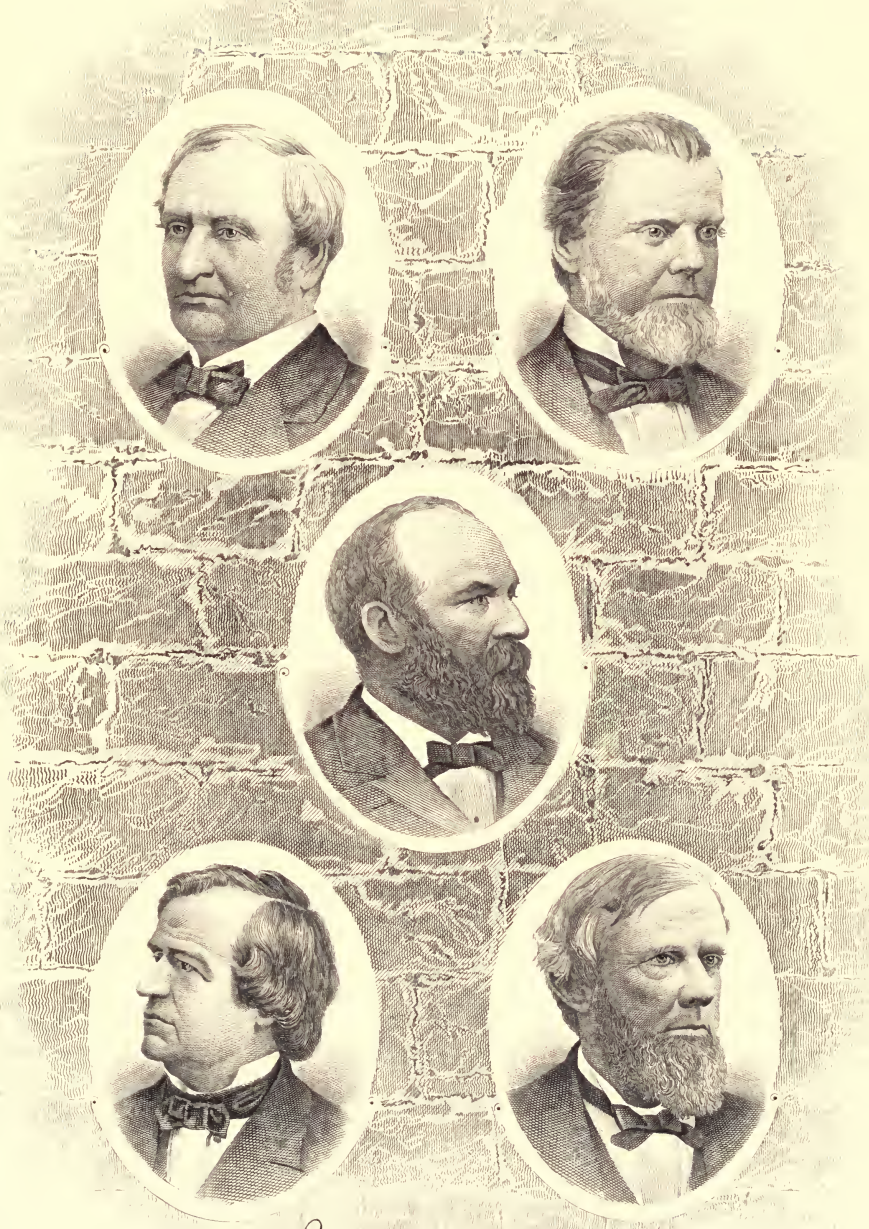
General Forrest estimated the strength of the Ku-Klux organization in Tennessee at 40,000. He expressed the belief that it was still stronger in other states. The members were sworn to secrecy, under the penalty of death for breach of fidelity. Their ordinary mode of operation — as gathered from the mass of evidence — was to patrol the country at night. They went well armed and mounted. They wore long white gowns. They masked their faces. Their appearance terrified the timid and superstitious negroes who happened to see them as they rode past, and who then regarded them as ghostly riders. But most frequently they surrounded and broke into the cabins of the negroes; frightened and maltreated the inmates; warned them of future vengeance; and probably carried off some obnoxious negro, or "carpet-bagger," whose fate it was to be riddled with murderous bullets, hung to the limb of a tree, or mercilessly whipped and tortured, for some offense, real or imaginary, but generally because he was active in politics or in negro schools or churches.

The Ku-Klux operations in the State of North Carolina were described to a congressional committee by one who had been a member, but who had shrunk from participation in the crimes to which he had pledged his countenance and support when he joined the order. This was a member of the North Carolina bar. His name is Mr. James Boyd. He was United States District Attorney for the western district of the state — having joined the Republican party and become one of its conspicuous local leaders. Mr. Boyd described the ceremonies of initiation. The oath-bound members were to obey all lawful orders of the organization,—the qualification "lawful" being applied, not to Federal or state authority, but to the authority of the order. The meetings were held in the woods or other secret places. The manner of making nocturnal raids was prescribed by the regulations. No raid was to be made, no person punished, no execution done, unless it had been first unanimously agreed upon at a regular meeting of "a camp" of the Klan. It must have been duly approved by the officers and chief of the Klan. They had secret signals and watchwords. When punishment was to be inflicted on a victim, the raiders came, not from his vicinity, but from a distant locality, so as to avoid recognition. The penalty for disclosing the secrets of the order was death; and the obligations extended to giving false testimony before the courts, if necessary, and if on a jury, to acquitting members on trial.

According to the majority report of the Senate select committee, of March 10, 1871, the Ku-Klux associations, by whatever name known, were instituted in North Carolina in 1867 or 1868. This lawless combination, therefore, was coeval with the Reconstruction acts and their enforcement. The inference is that those acts, by their revolutionary character, formed the

chief provocation to Ku-Klux atrocities. The people of North Carolina had submitted, with what degree of resignation they could command, to the abolition of slavery, to the overthrow of their state government, and to the temporary rule of military power; but the grant of universal suffrage to their former slaves, accompanied by the disfranchisement of the most intelligent, wealthy, and influential citizens, was more than they could patiently bear. Nothing could have been more hopeless than the idea of successful resistance; and the resistance offered was at once foolish and criminal. Still it was natural under the circumstances; and should have been anticipated and avoided by the ruling element in Congress. There were indeed circumstances in the condition of the South which pointed strongly to the necessity of giving universal suffrage to the negroes. As a rule, no one class of people can be safely entrusted with the exclusive powers of legislation and government over other classes; and the temper of the Southern white people towards their former slaves, just emancipated by the conquering arms of the Union, was not such as to make that people an exception to that rule. But where is found any reason for the subjugation of the whites to the blacks? Will not its attempt forever remain a stain upon the wisdom and fairness of the then dominant power in Congress? If, while conferring universal suffrage upon the blacks, the leading whites had been left in free and undisturbed possession of political rights, and had been invited and encouraged to take an active part in the reconstruction, without being required to recant former political views and party associations,—the success of reconstruction measures would have been promoted; the rights of the negroes better secured; good feeling substituted for a sense of bitterness and injustice; and an orderly and honest administration of state affairs would have existed instead of the carnival of fraud, robbery, and violence that actually followed the enforcement of the Reconstruction acts.

The report of the Senate committee of the 10th of March, 1871, before referred to, recites a startling number of Ku-Klux outrages. They embrace whipping, mutilation, and murder. These cruelties took place in North Carolina, between December, 1868, and December, 1870. The report gives some of the horrifying details. One case is that of a man named Outlaw. His only crime was that he was the head of a Loyal League in Alamance County. For this offense he was condemned, sentenced, and executed by the Ku-Klux organization, on Feb. 9, 1870. He was taken from his house about midnight by a band of from eighty to a hundred men, and hung upon an elm tree, not far from the court-house door. No active measures were taken to arrest and punish the murderers. In this same county, a simpleton, who was supposed to have seen some of his neighbors who had taken part in the murder of Outlaw, was drowned in the mill-pond. Two other negroes were shot, but not killed, and fifty were whipped. In Craven County, two men were shot, but not killed. In Caswell County, a member of the state



RECONSTRUCTION STATESMEN.

LIBRARY
OF THE
UNIVERSITY
OF
CALIFORNIA

senate, named J. W. Stevens, was murdered, and two men (one white and one colored) were whipped. In Catawba County, twenty-two men were whipped, and one shot, but not killed. In other counties there was a like record of whipping and assassination. An internal revenue agent related that, one day, while traveling in Orange County (in which six or more men were hung and five or six whipped), he came upon the bodies of two colored men hanging on a tree. Some women and children, near by, were crying, and begged him to read the paper that was attached to these bodies. With some apprehensions lest he might be suspected of sympathy with these people, he climbed the tree and read the paper. The words written on it were: "Barn-burners and Women-insulters.—K. K. K."

This reference to barn-burners is explained by testimony given on the other side of the question. It referred to the fact, as alleged, that the negroes, acting under the evil instigation of some of their white leaders, had also resorted, on their part, to acts of violence and intimidation, in the form, particularly, of setting fire to the barns of their white neighbors. One witness testified to seeing five barns thus on fire at the same time in Wake County, and also to the fact that negroes were stationed in ambush to shoot down men who should attempt to extinguish these fires. Insults and outrages by black men against white men were also put forward as a justification of Ku-Klux proceedings; but such charges were more easily made than proved. Negroes who had voted with the Democrats were in turn whipped and maltreated by men of their own race. These mutual acts of violence and crime indicate the terribly excited and lawless condition of society in these states during this unhappy transition period.

Governor Holden was then governor of North Carolina. He was at the same time president of the Loyal League of the state. His administration was marked by extreme partisanship, and by undue leanings toward the colored people and against the whites. For these unnatural partialities he has since atoned, by a reformation of his political opinions and a change of his partisan ties. Numerous instances were given of negroes being whipped by negro mobs for voting the Democratic ticket. In one case, where the perpetrators were indicted, tried, and sentenced to imprisonment for one and two months, they were pardoned in a few days by Governor Holden; and it was said that the governor, in his report to the legislature, reported pardons, almost exclusively of negroes convicted of outrages, in one hundred and twenty-five cases. In fact, one of the chief causes of complaint on the part of the whites in the State of North Carolina was that the negro perpetrators of crime, even if they were arrested, always escaped punishment, either by the connivance of the courts, or by the clemency of the governor.

The disorders in the state became so flagrant that Governor Holden issued proclamations in March and July, 1870. In them he declared the counties of Alamance and Caswell in a state of insurrection. He author-

ized two citizens of Tennessee — George W. Kirk and George B. Bergen — to raise a regiment of militia for the suppression of the insurrectionary proceedings. Both these men are said to have been of notoriously bad character; and, as they were not citizens of North Carolina, but were temporarily residing in Washington City, their appointment as colonel and lieutenant-colonel of the state militia was at once unconstitutional and impolitic. They raised a force of about six hundred men. With them they operated in the two counties named. They arrested a large number of prominent citizens. These arrests caused great excitement throughout the state. An address was issued by the Democratic leaders, charging that this armed movement had been set on foot by Governor Holden in order, by intimidation of voters, to control the pending election.

The persons so deprived of their liberty were subjected to the grossest indignities, brutalities, and deprivations, in cells of common jails. Writs of *habeas corpus* in their behalf were issued by Chief Justice Pearson, of the state supreme court; but Colonel Kirk refused to obey them. Thereupon the chief justice addressed a communication on the subject to the governor.

Governor Holden, however, took the responsibility of violating that clause of the Federal Constitution which declares that,—"The privilege of the writ of *habeas corpus* shall not be suspended." Colonel Kirk, on his part, treated the action of the judiciary with brutal contempt. He declared to the deputy-marshal that he had nothing to do with those papers; that they were "played out," and that he obeyed the orders of the governor. Finally Judge Pearson, shrinking from what he regarded as a futile and dangerous attempt to enforce obedience to the writ, contented himself with directing the writ and a copy of his opinion to be exhibited to the governor, remarking that if the governor obeyed the writ, well, if not, he (the judge) had discharged his duty; that the power of the judiciary was exhausted; and that the responsibility rested on the executive. In this course, he said that he was following the example of Chief Justice Taney in Merriman's case, in 1861. There, under somewhat similar circumstances, General George Cadwalader, then in command of Fort McHenry, refused to obey a writ of *habeas corpus* issued by the chief justice for the production of a prisoner, then confined in the fort, on a charge of treason. In that case Judge Taney ruled that Congress alone — and not the President — could suspend the privilege of the writ, but he also declared that he had exercised all the power conferred upon him by the Constitution and the laws; that that power had been resisted by a force too strong for him to overcome; and that the responsibility rested with the President of the United States, who was to be furnished with a copy of the opinion of the Court.

In this North Carolina case, however, in which the governor refused to obey the mandate of the supreme court of his own state, he did not carry his recusancy and contempt of the judiciary so far as to refuse obedience to

the mandate of the United States District Judge. This Judge, George W. Brooks, issued a writ in behalf of the same prisoners. Governor Holden made an earnest appeal to President Grant to sustain him in the matter; but the President referred the case to the Attorney-General, Mr. Ackerman. The Attorney-General decided that the district judge could not refuse to issue the writ. He advised the state authorities to yield to the United States judiciary. In order to retain control of such of the prisoners as had not applied to Judge Brooks, Governor Holden directed Kirk to obey the writs issued by Judge Pearson; so that the parties could be held for trial by the civil courts. Nothing came of this, however. All the prisoners escaped, though some of them may have been guilty of the outrages charged against them. There can be no doubt that the attempt of the governor to substitute military rule, or his own rule, for law, defeated the ends of justice. The guilty as well as the innocent victims of his arbitrary measures became heroes and martyrs to the cause of liberty. They were shielded by the sympathies of the great mass of the white race.

As a consequence of these despotic and unconstitutional proceedings,—Governor Holden was impeached by the house of representatives of his state. He was tried by the senate sitting as a court of impeachment. He was convicted by that body. One or more of his Republican friends voted against him on some of the counts. He was sentenced to the forfeiture of his position as governor and to perpetual disfranchisement. Thus ended what was known in the state as the Kirk-Bergen rebellion.

As an illustration of the motives and sentiments which inspired Governor Holden in his conduct in the matter, let us refer to the testimony of the Rev. J. Brenton Smith, before the select committee of the Senate, in February, 1871. Mr. Smith was an Episcopal clergyman. He had been sent to North Carolina, from New-York, by an association connected with the Church. He was engaged in the propagation of religion and education among the colored people. Under the auspices of this association, he had founded a normal school at Raleigh, and had become its principal. He was a man of superior intelligence. He took a lively interest in passing events. He was a Republican in politics; but when he had become acquainted with the condition of affairs in the state, his sympathies were given to the liberal side of that party as against the radicals. He said that he had talked with Governor Holden about the great injury done to the state by his proclamation of insurrection, inasmuch as it kept persons from coming into the state to buy land. The governor, he said, was very much excited about the recall of the United States troops from the state, having received no assurance that other troops would be sent to supply their place. Mr. Smith remarked to him: "Governor, what distresses me is that you should put these colored men up for Congress and for responsible offices. I notice in my work among these people that there is great moral injury done to them throughout the

state. The effect is very bad. It unsettles them. They do not seem to be disposed to go to regular labor, because they are looking to political preferment." The governor remarked in response, that as Congress had seen fit to pass a law by which colored men were admitted to seats in the state legislature, he wanted Congress to have some of the same medicine. He, therefore, was in favor of sending colored men to Congress. He also said that if the United States Government did not send troops into the state, he should arm the colored people. He boasted that he could control, by his word, eighty thousand men. He went on to say that, in his opinion, General Grant would hold the government of the United States. No matter how the election in 1872 turned out, General Grant would rule. He (Governor Holden) desired him to be emperor, and desired to see his son succeed him as emperor. It may be added that Governor Holden was not singular in the wish thus expressed. The same sentiment was not uncommon in North Carolina among Governor Holden's adherents. He was not the only one who gave expression to it. Time had been when such words would have been considered treasonable; but at this period (1870–'71) they were regarded as the shibboleth of the highest type of loyalty, in the South at least.

It would be wearisome and sickening to attempt to give any detailed account of these Ku-Klux brutalities. It might be supposed that the disturbed districts were those in which the largest negro population was found. Such, however, was not the case. On the contrary, the counties in which the most of such outrages occurred were those where the white population largely exceeded the colored population. In Alamance County, for instance, where, in 1870 the white population numbered 8,234 and the colored population 3,640, there were fifty-four such outrages reported; whereas, in the county of Craven, where the colored population was one-third larger than the white population, there were only two outrages; and in the county of Caswell where the proportions were about equal, there were but three outrages. Of the ninety counties in North Carolina, sixteen contained more colored citizens than white, and of these sixteen, there were only three (Caswell, Craven, and Jones,) in which Ku-Klux outrages were reported. It is vain to pretend, therefore, that there existed a necessity in these counties for the formation of lawless secret associations, bound together by oaths, in order to protect society against a feeble minority of ignorant negroes.

It is impossible to pass over the outrage committed upon Mr. James M. Justice. He was an attorney-at-law, and a man of respectability. He resided at Rutherfordton, in Rutherford County. He was a Republican and a member of the state legislature. As an attorney, he aided in the prosecution of members of the Ku-Klux Klan. He had given offense to the order. In one of their secret conclaves they decreed that he must be put to death. His execution was ordered. The raid took place on the night of Sunday,

June 11, 1871. Eighty or more men, in the usual disguise, marched into the village. They had left their horses on the outskirts. They surrounded his house. It was raining very hard. They broke open the door of his dwelling with an axe, and several of them entered. Hearing the noise, Mr. Justice rose out of bed and attempted to go to his gun, but was intercepted. They lighted matches and found their victim before them with only his night-shirt on. They ordered him to come out of the house. He begged to be let alone. They informed him that his time had come. They dragged him out of his house. When he resisted, he was struck with a big pistol and fell down insensible. After he came to consciousness, he was forced to walk several hundred yards into the woods. There the fiends held a council over him. Although he had screamed loudly for help when taken out of his house, and although the neighborhood was populous, none of the neighbors dared to come to his relief. In the woods he pleaded hard for his life, but the general voice was for killing him. Finally, through the influence of the leader, who seemed to possess more intelligence and humanity than his followers, they contented themselves by extorting promises from Mr. Justice. His life was spared, and he was permitted to return home without further suffering at their hands. His only offence had been his politics and his prosecution of the Ku-Klux for their crimes. In his testimony, Mr. Justice recited many instances of outrages that had been perpetrated in Rutherford, Cleveland, Lincoln, and Gaston counties. He could not enumerate them, but could only say that there were more than one hundred of such outrages. Many men had come to him and exhibited the marks of lashes on their backs and the wounds received from guns and pistol shots. Mr. Justice could not remember all the whippings he had heard of; but they were very numerous. Among them was that of an old white man, John Nodine, a soldier of the War of 1812, and a citizen of the state, who had been whipped for voting the Republican ticket.

But perhaps the most hideous case of whipping recited by Mr. Justice was that of Aaron Biggerstaff. He was an old, white-haired gentleman. A large gang of raiders armed with guns and pistols broke into his house by night. They pulled the old man out of his bed. They dragged him into the road in front of his house. There they beat him with hickories and kicked him with their feet for a long time, and then brought him back into the house. This barbarous punishment was inflicted upon him merely on account of his politics, and because of his harboring another man named McGahey, who had retaliated for an outrage committed on his family, and had shot one of the gang connected with it. Twenty of the members of the band who had thus maltreated Biggerstaff were arrested and brought before Judge Logan, of the state circuit court; but Biggerstaff, his son and daughter, while on their way to Charlotte to prosecute the prisoners, were attacked and treated with great cruelty; and the old man would have been

hanged by the gang had it not been that the son, who recognized several of them, had managed to escape. Being afraid of the consequences if they proceeded further in their outrages, they ordered Biggerstaff and his daughter to return home and not to say anything about what had happened to them. Thirty men were subsequently tried before the United States Circuit Court for participation in the first raid upon Biggerstaff. Sixteen of them were found guilty, and eight not guilty. As to the other six cases, a *nolle prosequi* was entered. For participation in the second raid upon Biggerstaff and his family, while they were on the road to Charlotte, five men were arraigned. Three pleaded guilty, while a *nolle prosequi* was entered for the other two.

As before remarked, the outrages were not all confined to the one side in politics. There were also great outrages upon the other side. The military terrorism exercised by the militia under Kirk created a very bitter feeling of irritation and alarm. Another great cause of trouble was the partisan conduct of some of the state judges. Judge Logan, who was elected in 1868, was one of these judges, against whom the bitterest feeling existed. He was an unscrupulous partisan and an incompetent judge. A petition for his removal was signed by all the leading lawyers of the North Carolina bar practicing in Charlotte. The resolutions contained in the petition declared that Judge Logan was not qualified either by learning or capacity to discharge the duties of his office; that, by reason of his incompetency, the course of justice had been impeded; that in many cases justice had been virtually denied; and that public confidence in the efficiency of the government and of the laws had been impaired.

Witnesses of great respectability, when questioned in regard to the causes of the trouble in the South, expressed the opinion that the principal cause was bad government. They said that, up to the time when these reconstructed governments and constitutions were imposed upon the people, no such crimes had been committed; that from the close of the war up to 1867, affairs had been perfectly quiet in the South; and that the disturbances were to be attributed to bad government, corrupt and incompetent officials, and evil advice to the ignorant negro population.

An incendiary address, signed by the Republican members of the legislature of North Carolina in 1868, was referred to by some of the witnesses as having been productive of much mischief. One of the paragraphs of this address was in the following words:

"Did it never occur to you, ye gentlemen of property, education, and character — to you, ye men, and especially ye women, who never received anything from these colored people but services, kindness, and protection, — did it never occur to you that these same people, who are so very bad, will not be willing to sleep in the cold when your houses are denied them merely because they will not vote as you do; that they may not be willing to starve while they are willing to work for bread? Did it never occur to you that revenge, which is so sweet to you, may be as sweet to

them? Hear us, if nothing else you will hear: did it never occur to you that if you kill their children with hunger, they will kill your children with fear? Did it never occur that if you good people maliciously determine that they shall have no shelter, they may determine that you shall have no shelter?"

It was stated as the opinion of one of the most intelligent witnesses (Mr. Durham) that barn-burnings, rapes, and other crimes on the part of the negroes were the legitimate fruits and consequences of this paper signed by the Republican members of the legislature. Mr. Durham also explained that the influence exercised over the colored people by the Northern adventurers or "carpet-baggers" who settled or squatted there at the close of the war, was owing to the fact that the Northern people were regarded as the liberators of the colored race; while the idea was studiously inculcated among them that the white people of the South were their enemies. Mr. Durham regarded the Reconstruction acts as unwarranted and oppressive, because they disfranchised a large number of the best men of the Southern country, and because the most ignorant and superstitious negro was given the privilege of holding the highest offices of trust and profit, while such men as Governor Graham, Governor Bragg, and others in whom the whole people of North Carolina had confidence, were disfranchised. The intelligent people of the South, he said, could not look upon such treatment in any other light than as being hostile to their best interests.

The crimes and disturbances of which the State of North Carolina was the theatre during the few years of the reconstruction period, are set out in painful detail in the various reports of congressional committees; but a sufficient review of them has been given here to present a fair and correct idea of the condition of society there and elsewhere at that time. The following chapter will have to do with the like subject in the other Southern states. Wherever these excesses appeared, they were not unlike the ghost of departed liberty. They took a grisly, horrific aspect, to deter the superstitious and defy the selfish. They were not more revolutionary than the causes which produced, and which do not justify them.

Measures of repression and usurpation are in their very nature revolutionary. The strain to keep freemen down is sure to react. As to these secret societies in the South, history should not fail to consider the circumstances under which they arose.

This unlawfulness did not appear immediately after the war. The South had accepted the arbitration of arms. It began to grow contented. Its people embraced all the conditions proposed in 1867, for their state governments. They abolished slavery, annulled the secession ordinance and the rebel debt, accepted negro suffrage, and sent representatives to Congress. Their tenders were received grudgingly and suspiciously. Then the discontent began. It dates from the repulse in Congress and the breach of faith to them in Washington.

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CHAPTER XXVI.

KU-KLUX OUTRAGES.— CONTINUED.

SOUTH CAROLINA — FRAUD AND VIOLENCE IN ELECTIONS — TWO CONTESTED ELECTION CASES — GEORGIA — GENERAL SWAYNE'S REPORT — GENERAL GORDON'S VIEWS — NO EXCUSE FOR KU-KLUX ORGANIZATIONS OR RAIDS — ALABAMA — ASSASSINATION OF ALEXANDER BOYD — INTIMIDATION OF STUDENTS — THE METHODIST CHURCH SOUTH — OUTRAGES UPON PREACHERS — MISSISSIPPI — HOSTILITY TO FREE SCHOOLS — OUTRAGES ON SCHOOL TEACHERS — THE MERIDIAN RIOT — WHIPPING OF HUGGINS AND McBRIDE — THE KU-KLUX START IN TENNESSEE — THEIR RAPID SPREAD IN OTHER SOUTHERN STATES — BAD GOVERNMENT CAUSES SECRET ASSOCIATIONS — HENCE, THE ILLUMINÉS — THE TUGEND-BUND — THE CARBONARI — THE JACOBIN CLUBS — THE NIHILISTS — THE FENIANS — THE LOYAL LEAGUES — AND THE KU-KLUX KLANS — THE AUTHOR'S SPEECH AGAINST THE FORCE BILL.

TESTIMONY that was taken in 1868, in two contested election cases in the United States House of Representatives, exhibits the condition of affairs that existed in the State of South Carolina at that time. The contests in question were in the cases of Hoge and Reed, of the Third district, and of Wallace and Simpson, of the Fourth district. Mr. Hoge and Mr. Wallace were both Republicans. Almost as a matter of course, they obtained their seats. Evidence was presented tending to show that the two Democrats who had obtained certificates, had secured their majorities by violence and fraud. Their opponents were seated, not because they had received a majority of the votes, but on the ground that the two Democrats were ineligible, being banned by the Fourteenth Amendment to the Constitution. The Third district was composed of the counties of Abbeville, Anderson, Edgefield, Newberry, Lexington, Richland, and Orangeburg; and in all of these counties except the last the evidence showed that there had existed the most defiant terrorism and fraud. Several hundred men from Edgefield County had voted in Lexington County, and fifteen hundred or

more of the Edgefield County men had also voted the Democratic ticket in the adjacent counties. But this violation of law was a venial offense, when compared with the measures resorted to by the lawless Southern men to prevent the negroes from voting. The terrorism existing in Edgefield County was so great that no man who was not in sympathy with the dominant white element could be induced to act as commissioner of election. One commissioner was shot at and left the county, and others refused to serve. The facts in support of the charges of violence are too numerous to be stated circumstantially. The white clubs organized in the counties were secret, oath-bound societies. They patrolled the county, generally undisguised. They paid domiciliary visits to the negroes and white Republicans, shooting some, whipping others, and warning all of the consequences of voting the Republican ticket. The avowed purpose of these clubs was to break up the Loyal Leagues. In order to accomplish this object, the patrol was instructed, if necessary, to shoot the leaders and active men of the Leagues. One of the patrol turned state's evidence. He confessed that he was one of three men who had orders to murder a prominent Republican named Randolph. This murder was committed about one o'clock in the day, at the railroad station, on the arrival of the train on which Randolph was a passenger. The tragedy occurred in Edgefield County. William R. Tolbert, the man who had turned state's evidence, stated that he himself and two associates fired on Randolph, who fell dead. These murderers were probably men of the lowest class of whites; but they were not more guilty than their more intelligent abettors. According to the testimony, the members of the club were sworn to obey the orders of their captain. They were instructed to find out the meeting places of the Loyal League, and to fire into them. They were to aim at their leading men. The club had special orders, at the Presidential and congressional election on the 3d of November, 1868, to be at the polls early and not to allow a negro or a Republican to vote.

Testimony to the same effect was given by other witnesses. Republicans of both races were intimidated and driven from the polls by the practice of whipping, shooting, killing, and expelling them from their houses. The terrorism was so great that, although Edgefield County contained 4,200 colored voters, only 800 of them voted at that election; while the white vote was between eighteen and nineteen hundred. There was less of violence and bloodshed in Lexington County; but there, also, the Republicans were intimidated. Nine hundred Republican voters, six hundred of them colored, were deterred from attempting to vote, while on the contrary several hundred Democratic citizens of Edgefield County were permitted to vote in Lexington. In Anderson County, about half of the colored voters abstained from voting. This was in consequence of threats of expulsion from their homes. Two young men were whipped for being Republicans.

Mr. Wallace, the Republican candidate for Congress in the Fourth district, testified at length as to the condition of terrorism in which the Republicans lived in his district. This district was, at that time, composed of the counties of Fairfield, Chester, York, Spartanburg, Union, Laurens, Oconee, Pickens, and Greenville. At the election in Laurens County, the Democrats formed lines around the polls. They thus kept off many of the negroes who would have voted; while some Republican negroes voted the Democratic ticket, from fear of punishment or of expulsion from their homes. It was testified that in Pickens County armed bands rode about through the country every night for over a week previous to the election. They thus intimidated the colored people and prevented them, as well as many white people, from voting. Outside the polls, parties opened the tickets and took down the names of all persons who voted the Republican ticket; while those who voted the Democratic ticket were given certificates by which they could obtain employment. In fact, if this evidence be credible, even in the least degree, the election was carried by fraud and intimidation.

The enforcement of the Reconstruction acts was the chief provocation to the outrages perpetrated by the white people upon the blacks. The enfranchisement of the negroes was resented by those who for generations had been accustomed to treat them as chattels.

In reference to South Carolina, the report of the joint select committee of the two houses of Congress of 1872 contains such a mass of revolting details that one cannot decide where to begin their citation or where to stop. Murders, or attempts to murder, are numerous. Whippings are without number. Probably the most cruel and cowardly of these last was the whipping of Elias Hill. He was a colored man who had, from infancy, been dwarfed in legs and arms. He was unable to use either. But he possessed an intelligent mind; had learned to read; and had acquired an unusual amount of knowledge for one in his circumstances. He was a Baptist preacher. He was highly respected for his upright character. He was eminently religious, and was greatly revered by the people of his own race. It was on this ground that he was visited by the Ku-Klux, brutally beaten, and dragged from his house into the yard, where he was left in the cold at night, unable to walk or crawl. After the fiends had left, his sister brought him into the house. Although this man was a Republican, his testimony gave evidence of the mildness and Christian forbearance of his character, as well as his freedom from ill-will toward the white race. In answer to a question as to his feeling toward the whites, he replied that he had good-will, love, and affection toward them; but that he feared them. He said that he had never made the wrongs and cruelties inflicted by white people on his race the subject of his sermons; but that he preached the gospel only — repentance toward God, and faith in our Lord Jesus Christ.

It seems, according to the report of the committee (from which the statements of this chapter are mainly taken), that the operations of the Ku-Klux organization throughout the State of South Carolina since 1868, had been confined chiefly to the nine counties already mentioned. There were only a few sporadic cases in other counties. These were immediately after the election in October, 1870. With the Hamburgh massacre of the 8th of July, 1867, this bloody period of South Carolina history was brought to a close. The writer has fully stated from his seat in Congress, his opinion of the facts in that matter. The facts exonerate Mr. Butler, one of the present Senators of South Carolina, who was harshly criticised at the North. That gentleman, in all that he did, endeavored to allay and prevent, rather than foment the terrible excitement.

The condition of affairs in the State of Georgia, immediately after the close of the war, was represented in an official report made by Gen. Wager Swayne, of the Freedmen's Bureau. It was dated Dec. 16, 1865. He stated that the withdrawal of the Federal troops had been followed by outrages on the freed people; that their school-houses had been burned, their teachers driven off or threatened with death, and the freed people compelled by fraud, and even by violence, to enter into unjust contracts. The responsible and educated classes were represented by General Swayne as being ashamed of these outrages and as claiming that they should not be judged by the people who were mean and cruel enough to practice such wrongs. He remarked, however, that the convictions of these higher classes never took form in action; and but seldom in manly open protest; and that it required the most careful nursing and culture to keep alive even a show of justice toward the freed people. He stated that nearly all the females and young men, and all the black-legs and rowdies, were open and defiant in their expressions of hate toward the "Yankees" and negroes, and that the only public opinion which made itself felt was as bitter and as malignant as ever.

Such was the state of feeling in Georgia at the close of the war, as it appeared to a United States army officer. It was a natural feeling of chagrin and mortification at defeat. It was mingled with detestation of the conqueror and contempt for the rights of the negro. Suffrage had not then been given to the negroes, but President Johnson had stripped many of the leading men in the Southern States — in fact all those who had theretofore participated in the government — of the right to vote and hold office. It would have been strange, therefore, if such bitterness of feeling had not existed for a time. But it will be seen that, a few years later, General Gordon, an eminent and eloquent Georgian, who had succeeded Stonewall Jackson in the command of his corps, saw things in a very different light. His statement before the joint select committee is summed up approvingly

in the report of the committee. It is to this effect: that the magnanimity and deference shown by General Grant and his officers toward the army of the South, at the time of and after the surrender, had led them to hope that they would be permitted to go home, resume their places and rights as citizens, organize their state governments, and resume their relations to the general government, just as if there had been no rebellion; but that, after President Lincoln's death, the people became apprehensive that some hanging and general confiscation would follow. When relieved of those apprehensions, and when the terms of reconstruction and the Fourteenth Amendment were proposed by Congress, they began to complain of want of good faith toward them. They became sullen and defiant. They regarded the government as having outraged them and deprived them of their rights. General Gordon spoke in high praise of the conduct of the negroes during the war. He referred to a speech made by himself at Montgomery, Alabama, while the contest was still raging. In that speech he praised the fidelity of the negroes. He urged the white people to provide for the education of the colored people. His remarks had been applauded, and many of the negroes who were present had come to him afterwards and thanked him. But he said that, when the "carpet-baggers" organized the Loyal Leagues in 1865 and 1866, the white people became alarmed. They, too, organized a secret order called "The Brotherhood." The whole object of this organization, he said, was to repel attacks of the Leagues. It extended throughout the state, and had no political end in view. This Brotherhood, however, dissolved, he said, as soon as the courts were re-established. The people believed that the courts, although in the hands of Republicans, would execute the laws fairly.

A secret organization that is formed for the purpose of regulating affairs and of righting private wrongs will infallibly drift into politics. The Loyal Leagues were organized for the purpose of keeping up, at fever heat, the sentiment of loyalty to the Republican party. They became political organizations from the start. They impressed the negroes with the belief that the adherents of the Democratic party were, at best, but lukewarm, half-hearted friends of the Union.

It is remarkable that, in Georgia as well as in North and South Carolina, and in other states where the Ku-Klux organization existed, its operations were carried on in counties where the whites preponderated. It is also worthy of note that the numbers of the Ku-Klux Klan who sallied out to make raids upon negro cabins or upon the teachers of negro schools, were out of all proportion to the probable resistance to be encountered. These valiant defenders of society who prowled over the country under the cover of night and of hideous disguises, rarely encountered a foe, unless they had a force of ten or twenty to one; and there were cases in which a

score of them were put to flight by a well-directed shot from a cabin. So true it is that men who are capable of acts of cruelty are apt to be poltroons.

In the State of Alabama there was the like amount of bitterness of feeling and of hostility toward "Yankees" and negroes that was exhibited in the other Gulf states at the close of the war. Opposition to the education of negroes was strong. Acts of violence were not infrequent. Governor Lindsay was elected governor of Alabama under the first constitution adopted in 1865, which confined suffrage to the white race. He admitted that the Ku-Klux organization existed in Alabama in 1868. He stated that he had approved and signed the act of the Republican legislature, passed in December, 1868, for the suppression of the order. When he testified in 1871, he did not believe that the order then existed in that state There was evidence, however, that an organized band of ruffians had perpetrated murder by wholesale in Alabama as late as 1870. William C. Luke, a white school-teacher, was murdered on the 11th of July, 1870, near the village of Cross Plains, in Calhoun County. At the same time and place four colored men were murdered, named respectively Tony Cliff, Barry Harris, Cæsar Frederick, and William Hall. These and other murders were perpetrated by a band of disguised men. The governor of the state employed ex-Governor Lewis E. Parsons to prosecute the murderers. The facts were furnished to the congressional committee by Mr. Parsons. He stated that, in the progress of the trial, the proof in regard to the operation of the Ku-Klux Klan showed that it had been active in several counties in northern Alabama ever since the year 1868. In repeated instances colored men had been taken out and whipped with hickory withes, sometimes beaten very severely with canes, sometimes shot, and otherwise outraged. Chancellor J. S. Clark, of the middle district of Alabama, resided at Eutaw, in Greene County. He was a Democrat. He gave it as his opinion that the Ku-Klux organization had been set on foot for the purpose of scaring the negroes, and that the negroes were intimidated thereby; and that the larger portion of the people in the community where he lived was opposed to the lawlessness of the Ku-Klux, although no public meeting had been called to put it down.

A most atrocious act of assassination was committed in Greene County, Alabama, in March, 1870. The prosecuting attorney of that county was the victim. Alexander Boyd, on account of his activity in prosecuting persons charged with Ku-Klux outrages, was boarding at the hotel on the public square in the town of Eutaw. About eleven o'clock at night, a band of disguised men, estimated at twenty-five in number, rode into the town. They formed in front of the hotel, detached a squad of men who compelled the clerk to show them to Mr. Boyd's room, and there deliberately murdered him, putting two bullets through his forehead, and several through other parts of his body. The town was full of strangers. Many people were on

the street, but no effort was made to arrest the murderers, although the sheriff was at the hotel soon after the murder. Whatever the number of honorable and humane people there, they were terrorized by the ruffians. Mr. Boyd was buried the next day without receiving the usual testimonial of respect from his legal brethren. Not one of them attended his funeral.

Intimidation and terrorism were practiced even against the students in the University at Tuscaloosa. On one of the doors of that university a bundle of letters was found one morning. It was fastened by a dagger. These letters were addressed to individual students, notifying them to leave within a given time, under penalty of the vengeance of the Ku-Klux Klan. The threats had the desired effect. The students to whom they were addressed left the university. Nothing is more likely than that, if the faculty and students had organized for their defense, the cowardly assassins would have kept at a respectful distance.

The Methodist Church of the United States was divided into two bodies in 1844, by the secession of that portion of it which was located in the slave-holding states. The discipline of the church, while tolerating slave-holding on the part of private members, denied the privilege to the ministers. This arrangement had worked very well in the days of small things, when the ministers were, as a rule, poor men; but, as the church grew in wealth and consequence, the ministers not unfrequently married into families that owned many slaves. The institution of slavery, as it grew in pecuniary value, became less and less obnoxious to criticism, at least in the South; and, from these combined causes, the yoke imposed by the discipline dictated by the great founder of Methodism, John Wesley, became unbearable. The question of obedience to it as a test of fidelity to Methodism came up for discussion in the general council in 1844. The discussion arose on the question of tolerating the disregard of it by one of the bishops. This bishop was the Rt. Rev. Mr. Andrews, of Georgia. He had married a lady who owned a number of slaves. He was not willing to surrender his claim of right to hold them. If his offense against the discipline had been one not likely to occur again, the difficulty might have been settled by compromise; but, as there were thousands of young ministers who stood ready to follow the example of the bishop; and, as the Southern branch of the church had become thoroughly imbued with the pro-slavery sentiment, the recalcitrant attitude of the Georgia bishop was universally sustained by the people and clergy south of the Potomac. The result was, that the church was rent in twain; and from that day forward, there have been the Methodist Episcopal Church, and the Methodist Episcopal Church South. Each is as distinct in its organization as the Presbyterians and the Baptists.

Soon after the war, an effort was made by the Northern branch of the church — and not without considerable success — to re-establish the church

in the South, on the original basis of opposition to slavery. The occasion was not illy chosen to make converts among the colored people and among the poor whites; but the attempt was none the less a source of irritation. It led to the intervention of Ku-Klux violence. The Methodist bishop of Ohio, Bishop Clark, in 1865, sent the Rev. A. S. Lakin into the South with this object in view. Mr. Lakin met with a checkered experience. He never advanced a political opinion in the pulpit; and yet his mission was to set up a church, the distinguishing feature of which was antagonism to slavery. He testified before the congressional committee in 1871, at which time he summed up the work which had been accomplished as follows: "We have there now about 15,000 members, a fraction over three-fourths of whom are white; we have six presiding elder districts, seventy circuits and stations, seventy traveling ministers, and about one hundred and fifty local preachers."

It seems that in 1868, Mr. Lakin was elected president of the State University at Tuscaloosa, but was compelled to vacate by the Ku-Klux. He was grossly assailed by a newspaper. His great success in building up the church was not unattended by persecutions such as were experienced by the early Christians; but personally, he was not, like Paul, honored by "stripes more abundant" than his fellow-laborers. On the contrary, he seems to have escaped the *ultima ratio* of the Ku-Klux disputants. His subordinates in the ministry, however, were not so fortunate, judging from the list of outrages upon preachers which he furnished to the committee. The list showed that the Rev. Mr. Sullivan was whipped; that the Rev. J. A. McCutcheon, presiding elder, was driven from the Demopolis district in 1868; that the Rev. James Buchanan and the Rev. John W. Tailly, presiding elder, were driven away; that the Rev. Jesse Kingston, local preacher, was shot in 1869; that the Rev. Mr. Johnson was shot in the pulpit in 1869; that the Rev. James Dorman was whipped in 1869, and driven away in 1870; that Dean Reynolds was whipped and left for dead, with both arms broken; that a colored preacher and his son were shot dead on the West Point and Montgomery road; and that the Rev. George Taylor was whipped. In Alabama, as elsewhere, the most Ku-Klux outrages were committed in counties where the white population largely outnumbered the colored.

The testimony taken by the joint select committee as to Ku-Klux outrages in the State of Mississippi fills nearly twelve hundred octavo pages. From such a wilderness of statements it is difficult to make up an intelligent synopsis within allowable limits. Gen. George H. Thomas, in his report dated Sept. 30, 1867, epitomized the report made to him by Gen. W. D. Whipple. It contained General Whipple's observations in a tour through the states of Mississippi, Alabama, and Georgia, the preceding November. The substance of it was that the general theme of conversation was the hated Yankee and whatever represented loyalty to the Union; that Union men

were murdered in cold blood or were driven off their farms; that soldiers and government employés were shot at or assaulted in the performance of their duties; and that no redress was to be obtained from the civil authorities.

There was a strong feeling of opposition manifested in Mississippi against free schools, supported by taxation. This opposition was attributed by Northern men and Republicans to prejudice against the education of the negroes; but, by the planters and other Southern men who testified before the committee, it was ascribed to the misuse of the school funds, which were in some way, absorbed or injudiciously expended by the "carpet-baggers"; and there is, indeed, abundant proof that the difficulties of reconstruction were greatly intensified by the character of the Northern men who went, or were sent, South to fill the offices. The general hostility to free schools on the part of the whites was illustrated by what took place in the county of Pontotoc, as testified by Mr. Flournoy, the school superintendent. In that county the whites largely predominated, so that out of sixty-four public schools, only twelve were for colored children. Of the teachers there were but eleven Republicans, and one of these was a colored man. Upon these eleven school teachers a systematic war was made by the Ku-Klux. Their homes or lodgings were invaded by night. Some of them were whipped; and all of them were warned to leave the neighborhood forthwith. Mr. Flournoy himself, although a Southern man, was not exempt from attack. He had a raid made upon him by a band of Ku-Klux one night in May, 1871. Having had warning of his danger, however, he had made preparations, and, with a party of citizens who had volunteered to defend him, and who were all, with one exception, Democrats, the assailants were driven off, leaving behind them one of their number, mortally wounded.

What came to be known as the Meridian riot caused great excitement throughout the State of Mississippi. It was carefully inquired into by the committee. The recital of its details would occupy too much space, and would only be an additional illustration of the disturbed condition of society in those Southern States. It is enough to say that, at a magistrate's examination of charges against three negroes for using incendiary language at a public meeting and for threatening to burn the town, a fight occurred. Some twenty or thirty pistol shots were fired in the court-room. Judge Bramlette was shot dead while sitting on the bench. Several others were killed or wounded. The alarm-bells were rung. Several houses in the town were set on fire and burned. Among them was the colored Baptist church. A number of colored men were killed.

But perhaps none of the lawless acts which so disgraced the states of the South during this unfortunate period was more entitled to condemnation and detestation than the brutal, merciless whipping of Mr. A. P. Huggins.

He had been an officer in the Freedmen's Bureau. He was then, March, 1870, an assistant assessor of internal revenue, and superintendent of public schools. On an official business tour in Monroe County, he was spending the night, by invitation, at the house of a respectable Democratic citizen named Ross. The house was surrounded by a band of about a hundred and twenty men, armed and disguised. They induced Huggins to leave the house and accompany them. They promised that not a hair of his head should be injured, saying that they merely wanted to give him a warning. At some little distance from the house the warning was given by the leader of the band, in a very pompous manner. It was to the effect that Huggins should leave the county within ten days, and that in the meantime he should relieve them from all county taxes. He was told that the rule of the "camp" was, first to give warning; second, to enforce obedience by whipping; third, to have the killing done by the "Klan"; or, fourth, to have it done privately, by assassination or otherwise. Not deterred by these direful threats, Huggins informed them that he should leave at his pleasure, and not until he got ready. Thereupon he was surrounded and disarmed, and carried off some distance farther. They paid no heed to his reminder that they had promised to do him no injury, or to his warning that he was an officer of the United States. They pulled his coat off, and commenced to whip him with a short stirrup strap. The executioners relieved each other. None struck more than ten blows, and some only two or three. The count reached fifty. Then, as he still refused to yield, one of the strongest and most burly in the crowd took the strap. He struck twenty-five blows without stopping. Mr. Huggins heard them say "seventy-five"; and then nature gave way. The victim of these cruel ruffians lost strength and consciousness; and when he came to himself, several of them passed in front of him showing their pistols, and telling him that if he was not gone in ten days, they were sworn to kill him either publicly or privately.

It ought to be said — not in extenuation of the crime, but in explanation of it — that the popular dislike to Mr. Huggins arose from his active instrumentality in the exaction of heavy taxes and his alleged extravagant and dishonest use of the school moneys that passed through his hands. He was supposed to pay extravagant wages to teachers and exorbitant prices for school buildings and furniture. He had graduated as a philanthropist in the school of the Freedmen's Bureau, where he had not learned the lesson: "Thou shalt not muzzle the ox that treadeth out the corn."

A similar outrage was perpetrated in March, 1871, against Cornelius McBride. He was an intelligent man, from the North of Ireland. His only offense was the teaching of a colored school. This outrage occurred near Sparta, in Chickasaw County.

These are specimens of the achievements of the Ku-Klux in Mississippi.

The testimony exhibits a long list of killed and wounded. Of the killed thirteen were white persons and thirty colored. Besides, there were some unnamed and undescribed. Of the whipped twelve were white and sixty-six colored, besides some half dozen others also unnamed and undescribed.

In Mississippi, as in the other states, the same fact was presented that the Ku-Klux organization and operations were confined to those counties wherein the whites largely predominated; while in the counties where the negroes were in great numerical majority, and where alone the peace of society might be endangered by them, there was an almost entire absence of Ku-Klux outrages. If the apology for Ku-Kluxism is to be admitted, it follows that the danger to the white race from the presence of a negro population, emancipated from the restraints of slavery, was not directly, but inversely proportional to their numbers.

There was no testimony taken before the joint select committee in regard to Ku-Klux outrages in Tennessee. The fact of their occurrence there is sufficiently attested by the reports of army officers; by the proclamation of Governor Brownlow in January and February, 1869, declaring the existence in middle and west Tennessee of "lawless bands who set at defiance civil law" . . . and of "masked villains called Ku-Klux"; by the fact that the legislature passed a law on the 20th of January, 1870, making it a felony for disguised or masked parties to enter a house by night or to demand entrance to the same; and also by the fact that in several counties public meetings were held and resolutions adopted denouncing the Ku-Klux Klan and all similar organizations in resistance to civil law. The disorders that existed in that state were due, in great part, to the arbitrary and unwise measures of reconstruction that were instituted and enforced by the Rev. William G. Brownlow, afterwards governor, who was a man remarkable for his prejudices and energies. There is much to be said in extenuation of his harsh measures, for he was measuring out to others what had been given in full measure to himself and thousands of other Unionists, in and out of prison, in and out of office. While he was military governor, Andrew Johnson was not entirely exempt from the same charge of unwisdom. The travesty of a state constitution had been framed at a popular partisan convention. As shown in a former chapter there was a rigorous clause in it which excluded from the right of suffrage all who had participated in the rebellion and who had not afterwards joined the Republican party and voted with it. All others, whatever might have been their course of conduct, were to be watched closely. They were required, when they came to the polls and offered to vote, to exhibit a clean bill of political health. It is not surprising that this tyranny of a relatively small faction, supported as it was by the United States Army, gave rise to the secret order of the Ku-Klux. This lawless and reckless order, according to the statement of General Forrest before referred to,

originated in Tennessee in 1866. This was before the passage of the Reconstruction acts, and the effect of those acts was to spread the order over a great part of the South.

The barbarous and cruel character of the outrages perpetrated by the members of this secret, oath-bound organization, the shootings, hangings, and whippings which took place during the midnight raids of those armed and disguised malefactors, and which spread dismay and terror among the weak and ignorant colored people, have been sufficiently described. It is unnecessary, and would be tedious and sickening, to follow up the narrative in the other Southern states. It will be enough to say that in Arkansas, Texas, and Louisiana, the same deplorable condition of things existed, and that outrages, terrorism, and intimidation took the place there of peace, good order, and civil law.

Happily, Ku-Kluxism and its attendant horrors are now things of the past. But while they are things of the past, they furnish us historic lessons. When the Republican portion of the Ku-Klux committee recommended amnesty at the end of their report to Congress, they demanded a further enforcement of the rigors of the previous Ku-Klux law. This was an admission that the South was good enough for the one, even if bad enough for the other. Repression was uppermost in the Republican counsels; and when an anodynous amnesty was proposed, it lost its efficacy by being accompanied by caustic measures. An olive-branch was in one hand and a sword in the other; the open palm and clenched fist; the kiss of peace and the dirk of revenge. Mr. Blaine and others endeavored to reunite his party in 1868, upon the harsh measures. He could not do it with a quill from the dove. If the Ku-Klux grew, what fed their inordinate appetite and gave them strength? If the great writ was suspended, and elections were held under enforcements of a bad law by convenient garrisons of soldiers, were there not pretexts, if not causes, for the existence of such *diablerie* as the fantastic and cruel secret societies inaugurated? No true Democrat ever favored such societies or klans.

The writer was a member of that joint committee, along with Senators Bayard, Beck, and others. His name with theirs is affixed to the minority report. Some conclusions appear in it, worthy of note: — there was an unqualified admission that there were few if any disorders in Virginia, Florida, and Louisiana. As to other states, there was not an accord of judgment in the committee; but it was agreed generally, that the disturbances were limited to a few localities in certain portions of the Southern States. Consequently there was no concerted system. Thus limited, and thus denounced by both parties, nevertheless, the existence of the klans was made the pretext of a general military dictatorship over the entire Southern land.

During the debate in Congress upon the force bill, April 4, 1871, the

writer inveighed against the intolerable burdens which the ignorance, bribery, and corruption of the legislature of South Carolina had heaped upon that state, and the increase of her debt and bonds, through plunder. These grievances, and the intolerable exactions of the Federal Government by taxes and laws, should have had some consideration in Congress. Before placing a whole people at the mercy of an ignorant race, and setting up a vindictive military supervision of suffrage and courts-martial, there should have been reasonable efforts made on the line of conciliation.

In one of the discussions Mr. Maynard, of Tennessee, asked the writer if he wished it understood that he justified the conduct of the Ku-Klux organization. The inference was repelled. The writer had condemned it, from top to toe, inside, outside, and from every side. He stated that he had proposed in the Democratic caucus, the issuance of an address denouncing all forms of lawlessness, secret or open. On Mr. Hoar's satirical inquiry — to be informed whether the caucus assented — the Massachusetts member received an affirmative answer. The following is a condensed statement of what the writer said on that occasion, when speaking against the force bill:

Recurring, then, to the invariable laws of society, and with the method of Buckle and the rule of Mackintosh in mind, what do the science of history and the maxims of good sense teach as to similar diseases and their cure? Is not the secret conclave, the circle, the club, the league, the conspiracy, ever the result of bad government? Is not despotism the devil which begets desperation? Is not repression the father of revolution? Does not history show that secret political associations grow out of tyranny and persecution? Aye; and that, too, though they may be at first inspired by generous and elevated ideas of human rights.

Whence came the *Illuminês*, so potential within this century? From Weishaupt, a learned professor of Germany. They spread into France in the time of Louis XVI. They spread over Europe. Kosciusko and Mirabeau, men of action — Kotzebue, Schiller, Schlegel — the geniuses of Europe — the liberty-loving men of the new era — were its devotees. True, these societies were stained with plots and assassinations. Bonaparte tried to crush them. The *Tugend-Bund* arose in Germany to counteract them, as the Ku-Klux did to meet the Union Leagues. They spread, with sword in hand, over Europe. They were even found on the banks of the Delaware fighting for our independence.

The Jacobin clubs of the French revolution were another form of unrest. Their diabolical assassinations, open and secret, were a protest against the ignorance, privileges, and prejudices of absolute monarchy. The same kind of clubs, not so violent, but not less revolutionary, four hundred and fifty in number, inspired the French revolution of 1848. They, too, were a protest

against an oligarchy which trampled on the popular interests. France, almost to the present day, is gashing and slashing herself in wild despair, under the influence of similar secret clubs, the result of that reaction which, by immutable laws, follows the repression of a people. An oppressed people, as Curran said, will in some way strike down their oppressors, even with their own shackles.

All history shows that such societies grow by persecution, and that they are the bitter fruits of tyranny. Illustrations rush to the mind in throngs. The French power trembled from secret societies in Algeria, the result of harsh and unjust laws. The Fenian societies are the effect of long-continued English oppression. What is Nihilism but justice, wildly protesting with violence against hoary wrong and insupportable despotism? The experiments begun by Robert Fulton, in 1805, by blowing up a buoy in Deal Harbor, England, with two torpedoes filled with 180 pounds of gunpowder, and by means of clock-work, have not only commanded the attention of governments since for legitimate warlike uses, but with the invention of nitro-glycerine and its adjuncts, nitro-gelatine, forcite, and giant powder, it has made dynasties tremble for their injustice toward the people. Secrecy and chemistry are not justifiable when used for violent and vain retaliations; but they are, nevertheless, the consequences of bad government. To uproot the evils of secrecy and violence, a wise statesman will eradicate their proximate and even remote causes.

The most conspicuous illustration, and the one most analogous to the Ku-Kluxes, is that of the Italian *Carbonari*. Their name comes from *carbonaro*, — charcoal-burner. The remoteness of the charcoal-burning establishments, in forests and amid mountains, especially in the Abruzzi, was a protection to their secrecy. Their ritual was framed in a wild language. Their object was to wreak vengeance on their political oppressors; or, as they expressed it in their symbolic motto, "Revenge upon the wolves who devour the lambs." From those rude huts in Italy they swelled to seven hundred thousand under the oppressions of their rulers. People of education joined them. The growth of the order alarmed the governments of Europe, especially the Bourbons. After 1819, they joined the republicans of France. Men like Lafayette even joined the society. It was the prolific parent of insurrection everywhere. In France it numbered six hundred thousand. It was a dark and constant protest against despotism and in favor of liberty. The order struck wildly at both religion and society. Men sought a covert and a refuge for their wrongs, enthusiasm for their sentiments, and immunity for their political disaffection. Poland is now, and has been since her spoliation, full of secret associations. From the time of Ferdinand VII. to the death of Prim, and even now, under her limited monarchy, Spain is menaced with them.

There is a history and mystery of horror about these secret societies of Europe. Gun, infernal machine, dynamite and poniard are their terrible playthings. Their object has been and is to overthrow, not to substitute. They desire to be rid of evils without a thought of the worse ills that may come. They desire a new birth of state and society. They regard the old order as incapable of reformation. Therefore they would raze it and sow salt on its ruins. They work for its destruction with a generous self-sacrifice worthy of a better and more open mode and cause. The conclusion from these facts of history is that such societies are caused by oppression and despotism, and that they become more implacable and secret by the severity of the laws made against them. These *Carbonari* were to the south of Europe what the *Illuminés* were to France, the *Tugend-Bund* to Germany, the Fenians to Great Britain and the Ku-Kluxes to the South. They were at once signs of reckless discontent and evidences of bad government. But, heedless of the lessons, Congress went on, piling severity upon coercion, as if it designed to make the South one great protest, secret, armed, and dangerous, against all authority.

Hallam enumerates in his Constitutional History of England, five essential checks upon the royal authority. Should there be a lesser number in a republic? One of these was: no arrest without a warrant; another: trial by a fair jury of the vicinage, *per judicium parum et per legem terræ;* and a third: that the violation of personal liberty could be excused by no warrant, not even the direct order of the king. In England it was Sheridan's boast that not a hair of the head could be plucked without legal guilt upon legal proof, but could he make his boast of the English government of his own Irish people. Our Constitution took its growth from these rudiments of liberty. They are the elements of Magna Charta: *Nullus liber homo capiatur.* England grew great by these elements. We observed them sacredly, and prospered, until these late unhappy times. Their infringement was the source of the disorders South. Their infraction by the force bill would have brought renewed disorders.

In concluding his remarks against the policy of force and in favor of that of freedom, the author then made this appeal to the better element of the party in power, during that struggle for the force bill in 1871. With this extract he closes this chapter:

"Shall there, then, be no attempt to crush these incendiaries? Aye, let us begin here in our midst. Are we so guiltless? Have we been moderate and just? Admitting our derelictions, the question returns, shall we allow these societies to continue? Do they not loosen the bonds of security and lead to crimes? Shall they not be eradicated? Yes; under the forms of law. Otherwise they will grow stronger. Will you forever postpone gentle ways of reaching them? Or why will you not leave them to the states?

Do you ask what is to be done where the state authorities have the power but not the wish to crush them?

"I answer that the states will be depopulated. The states will feel their own neglect in every interest, and should feel it till they act. Their credit will be impaired and their resources crippled. The greater the violence the sooner it will spend its force. Vengeance, like the Corsican *Vendetta*, will meet with death, though it track its victims like a sleuth-hound. The good band against it. Better have allowed the South to be overrun with it, than destroy the Constitution by illegal methods for its suppression.

"Gentlemen, I pray you to pause. You are on the brink. Your legislation will rebound. Save, oh! save us the possible, probable, nay, certain horrors to follow the execution of such laws by an irresponsible will! Save yourselves; aye, save your party! It has many ennobling memories; it has in its midst many gallant men; it has enrolled many splendid statesmen. Many of them have already deserted its flag, but still you number gentlemen, statesmen, and Christians. They ornament your ranks. But I beseech you to remember that there is no honor in pursuing with vengeance a discontented people. Cut yourselves not off entirely from one-half of our nation! You would then flourish no longer; for, as Brougham once said, 'the blossom dies when severed from the root and stem.' Save your country as an entirety, that you may continue to adorn it! Save the Constitution, without which the Union is not a band of states, but the emblem of a roving banditti!

"Has that instrument lost all its wholesome terror? Is it, like the battle-axe of Richard Cœur de Lion, referred to by the gentleman from Massachusetts (Mr. Butler), too great for our modern pigmies to wield? Is it a relic for the sanctuary? If, indeed, it be an object only of reverence for what it was, then pause before you mutilate it further! Reverence its rust, if you cannot respect its edge! I make my humble prayer, first to you, who have the temporal power to stay your invasion of the Constitution and the flood-tide of blood, faction, and ruin to ensue from the execution of this forceful act. But if I fail in this appeal, I then appeal to the throne of God for that mercy, in its abundance, which we shall need when such vindictive legislation is the law of our land."

CHAPTER XXVII.

THE RECONSTRUCTION UNDER ACTS OF CONGRESS.

FIVE MILITARY DISTRICTS IN THE SOUTH—VIRGINIA THE FIRST DISTRICT—PROVISIONS OF THE LEGISLATION—CALL ON THE PRESIDENT FOR INFORMATION—HIS REPLY—MILITARY COMMANDERS—GENERAL SCHOFIELD FOR VIRGINIA—HIS GENERAL ORDERS—SUB-DISTRICT COMMANDERS—DIVISION OF THE REPUBLICAN PARTY INTO MODERATES AND RADICALS—INDICTMENT OF HUNNICUTT FOR INCENDIARY LANGUAGE—THE BILL OF RIGHTS—THE VOTE ON THE NEW CONSTITUTION—GENERAL STONEMAN IN COMMAND OF DISTRICT—GENERAL CANBY SUCCEEDS HIM—REMOVALS FROM CIVIL OFFICE—ELECTION OF GOVERNOR WALKER—VIRGINIA RECONSTRUCTED—FINANCIAL STATEMENTS.

THE Reconstruction acts provided for the division of the Southern States into five districts, as stated in a preceding chapter. Virginia constituted the First district, North and South Carolina the Second, Georgia, Alabama, and Florida the Third, Mississippi and Arkansas the Fourth, and Louisiana and Texas the Fifth district. The President was authorized and instructed to appoint an army officer, regular or volunteer, to the command of each district. When so appointed, their powers were absolute and unlimited. They were endowed with legislative, judicial, and executive authority. The President himself could give them no directions or instructions. He could only remove them and appoint their successors. The general commanding the armies had no authority to approve or disapprove any of their acts. They could abolish charters, extend franchises, stay the collection of debts, and prohibit the foreclosure of mortgages, levy taxes, impose fines, and inflict penalties, authorize the issue of bonds, and the contraction of state indebtedness, set aside the decisions of the courts, remove all officers, and fill all vacancies, without the form of an election. These district commanders could even try persons by commissions selected by themselves. Fortunately for the people of the South, the selection of these commanders was in the hands of that pure patriot and honest man,

UNIVERSITY OF CALIFORNIA

Andrew Johnson. Under these acts, and with these dictatorial powers, Gen. John M. Schofield was appointed to the command of the First District. His headquarters were at Richmond.

The act prescribing this method of reconstruction was passed over the President's veto, March 23, 1867. It provided that before the first day of September then ensuing, the commanding general in each district should cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, residing in each county or parish of the state. This registration should include only those persons who were qualified to vote for delegates under the requirements of the act of March 2, 1867. Before registration the applicant must have taken and subscribed an oath that he had not been disfranchised for participation in any rebellion or civil war against the United States; that he had not held any executive or judicial office in any state and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to its enemies; that he had never taken an oath as a member of Congress of the United States or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to its enemies; and that he would faithfully support the Constitution and obey the laws of the United States, and would, to the best of his ability, encourage others to do so. The act also provided that, after the completion of such registration, an election should be held of delegates to a convention. This convention was for the purpose of establishing a constitution and civil government for the state. The convention in each state was to consist of the same number of members as the most numerous branch of the state legislature of such state in the year 1860. They were to be apportioned among the several districts, counties, or parishes in the ratio of registered voters, as nearly as might be. The convention in Virginia was to consist of the same number of delegates as had been in the most numerous branch of the legislature of that state in the year 1860. The counties, however, that constitute the State of West Virginia had been lopped off.

Provisions were also made for boards of registration, and for the usual machinery of an election. The vote was to be cast in the usual mode, by the registered voters: "For a convention" and "Against a convention." The act provided that if a majority of the votes given should be in favor of a convention, the delegates should assemble at a time and place to be mentioned in the notification. They should then proceed to frame a constitution and civil government. When this was done, the constitution should be submitted by the convention for ratification to the registered voters, at an election to be conducted by officers or persons to be appointed by the commanding general. It also provided that if the constitution should be ratified

by a majority of the qualified and registered voters, the president of the convention should transmit a copy thereof to the President of the United States, to be by him transmitted to Congress. If it should appear to Congress that the election was one at which all the registered and qualified voters in the state had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and that the constitution met the approval of a majority of all the qualified electors in the state, and was in conformity with the provisions of the Reconstruction act, then such constitution should be approved by Congress. The state should then be declared entitled to representation. Senators and Representatives therefrom should be admitted to Congress. All elections were to be by ballot. The registers and poll-keepers were required to take the test oath of July 2, 1862, — the "iron-clad oath." It subjected to the pains and penalties of perjury any of them who took it falsely.

The act of March 11, 1868, which was amendatory of the acts of March, 1867, became a law by lapse of time, the President neither signing it nor returning it with his objections. It had passed the Senate on the 25th of February, by a vote of twenty-eight yeas to six nays. It had passed the House on the next day by a vote of ninety-six yeas to thirty-two nays. It provided that any election authorized by the act of March 23, 1867, should be decided by a majority of the votes actually cast; and that at an election in which the question of the adoption or rejection of any state constitution was submitted, any person duly registered in the state might vote in the election district where he offered to vote, provided he had resided therein for ten days next preceding the election. It also provided that the constitutional convention of any of the states mentioned might provide that at the time of voting upon the ratification of the constitution the registered voters might also vote for Representatives in Congress, and for all elective officers provided for by such constitution. The original acts of reconstruction required the ratification of the constitution by majorities of the registered voters. But this rule was changed by the first section of the act of March 11, 1868. It provided that a majority of the votes cast should determine the question. The clause allowing voters to cast their ballots in any district where they had resided for ten days was conceived with the motive of securing ratification. This regulation admitted of the transfer of supernumerary voters from one district to another, in which their services might be needed. There could be no difficulty in effecting such transfers of the freedmen, with the ample powers possessed by the army and by the Freedmen's Bureau. The last clause of the act provided for the election of governors, members of the legislature, and Representatives in Congress, not as the state constitutions might provide, but as prescribed by an act of Congress.

The conventions in some of the states made suffrage universal. They thereby enfranchised the numerous classes which were, by the Reconstruction

acts, excluded from registration. But this act of March 11, 1868, authorized the district commanders to cheat these classes out of their rights by ordering an election of congressmen and state officers on the same day that the votes were given for ratification or rejection of the constitution, and by the same registered voters and no others. No ingenuity could reconcile this act and the proceedings under it with the Constitution of the United States, or with those of the states. The Constitution of the United States declares that "the House of Representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." It was, therefore, nothing else than rank usurpation for Congress to say who should elect state officers. The persons thus chosen had no legitimate authority. The so-called legislatures thus elected by a part of the people designated and qualified by act of Congress, were mere popular or party conventions. They had no right to contract debts, to impose taxes, or to make laws for the states which were subjected to their rule by external force. Neither were the men who were elected to Congress by the registered voters, to the exclusion of thousands who were qualified by the new constitutions, duly elected members of that body. Congress had no more authority to say that a part of the voters in a Southern state might choose representatives, than it had to apply the same rule to Massachusetts or New-York.

On the 3d of July, 1867, the Senate adopted a resolution requesting the President to communicate copies of all orders, instructions, circular letters or letters of advice issued to the respective military officers assigned to the several military districts under the act of March 2, 1867. It also required him to communicate copies of all opinions given by the Attorney-General of the United States touching the construction and interpretation of such acts. Copies were called for of all correspondence relating to the operation, construction or execution of such acts, between the President and any of such military commanders, between him and the general of the army, between the general of the army and any of the commanders touching the same subjects; also copies of all orders issued by any of such commanders in carrying out the provisions of the acts. The President was also requested to inform the Senate as to the progress made in the matter of registration under such acts, and whether the appropriation for that purpose was probably sufficient.

This resolution of the Senate was conceived in the same want of confidence in the President of the United States that inspired the act of July 19, to which reference has already been made. That act substituted the commander of the army for the Executive of the Nation. The President replied to this resolution on July 15. He stated that the appropriation of half a million of dollars for carrying the acts of reconstruction into effect had

already been expended, and that over a million and a half was required for immediate use. It was exceedingly difficult, he said, to estimate the probable expense of carrying into effect these Reconstruction acts. If the existing governments of ten states were to be deposed and their entire machinery was to be placed under the exclusive authority of the district commanders, all the expenditures incident to the administration of such governments must necessarily be incurred by the Federal Government. He estimated that the necessary expenditure, in addition to what had already been expended, would not be less than fourteen millions of dollars. He expressed the opinion that the cost of the administration of affairs by the Federal Government in these ten states would exceed that amount, and that the abolition of the state governments would make the Federal Government responsible for the state debts created before the rebellion for laudable purposes of public improvement. These debts amounted to about one hundred millions of dollars. "Was it," he asked, "worthy of the consideration of Congress, whether such an addition to the national obligations would or would not impair the public credit?" Would not a refusal to assume the debts of those states after overthrowing their governments be viewed as a violation of good faith and as a repudiation by the National Legislature of liabilities which the states had justly and legally incurred? It seems not to have occurred to the President that the same doubts or questions might have arisen in the minds of the creditors of those states in 1865, when he took the lead in overthrowing their governments. In addition to this general information, the President transmitted to the Senate the required correspondence.

General Schofield assumed the command of the First district, constituting the State of Virginia, on the 13th of March, 1867. In his general order of that date, he announced that all officers under the existing provisional government of the State of Virginia would continue to perform the duties of their respective offices, unless otherwise ordered in individual cases, until their successors were duly elected and qualified in accordance with the act of Congress of March 2, 1867. It was desirable (he said) that the military authority should be exercised only so far as might be necessary to accomplish the objects for which that power was conferred. He appealed to the people of Virginia, and especially to magistrates and other civil officers, to render the necessity for the exercise of military power as slight as possible, by strict obedience to the laws and by the impartial administration of justice to all classes.

This general order, like others issued by General Schofield, does honor to his head and heart. It shows that, like General Hancock in Texas, he took a statesmanlike view of the duties assigned to him. Other general orders were issued by him from time to time. Among them was one of April 20. It decreed that temporary appointments to fill vacancies occurring in

county or city offices should be made upon the concurrent recommendations of the county court or city council, and of the president of the Board of Registration. It requested the county courts and city councils to confer with the presidents of the Boards of Registration concerning such appointments, and to agree upon suitable persons to fill them. These recommendations were to be forwarded to the assistant adjutant-general. If the county court was not in session, then five magistrates might make such recommendations.

The following warning, given to a Richmond newspaper, by the direction of so mild a chieftain as General Schofield, will illustrate the unwisdom of the leaders of public opinion in the South at this time:

HEADQUARTERS FIRST DISTRICT, STATE OF VIRGINIA,
RICHMOND, VA., April 27, 1867.

Mr. Chas. H. Winne, Proprietor of the Richmond Times:

SIR: The commanding general directs me to call your attention to an editorial article in the Richmond *Times* of this morning, headed "A Black Man's Party in Virginia," and to say that, while he desires not only to permit, but to encourage, the utmost freedom of discussion of political questions, the character of the article referred to calls for severe censure. The following words: "It is a proposition which implies that they are ready to grasp the blood-stained hands of the authors of our ruin," is an intolerable insult to all soldiers of the United States Army; and no less so to all true soldiers of the late Confederate army, as they have long since extended to each other the cordial hand of friendship and pledged their united efforts to restore peace and harmony to our whole country. The efforts of your paper to foster enmity, create disorder, and lead to violence, can no longer be tolerated. It is hoped this warning will be sufficient.

An order of May 28 declared that, for the purpose of giving adequate protection to all persons in their rights of person and property in cases where the civil authorities might fail, from whatever cause, to give such protection; and in order to insure the prompt suppression of insurrection, disorder, and violence, military commissioners, to be selected from the officers of the army and of the Freedmen's Bureau, would be appointed and given jurisdiction in sub-districts, to be defined in the orders appointing them. These officers were to have a sufficient military force to execute, or to secure the execution of, their orders. They were clothed with the authority of magistrates in the counties, and of police magistrates in the cities. They were to be governed in the discharge of their duties by the laws of Virginia, so far as the same were not inconsistent with the laws of the United States. They were to report to the district commander each case of which they took jurisdiction, and their disposition of it. Where parties were held for trial, a full statement of the facts was to be reported, so as to enable the district commander to decide whether the case should be tried by military commission or by the civil courts. The latter mode of trial was to be preferred in every case

where there was satisfactory reason to believe that justice would be done. Any person who should disobey or resist the lawful orders or authority of a military commissioner was to be tried by a military commission, and punished by fine and imprisonment, according to the nature of the offense. The State of Virginia was divided into seven sub-districts by General Order No. 33. The sub-district commanders were required to exercise a general supervision over their subordinate military commissioners within their respective districts. The commissioned officers of the Freedmen's Bureau were appointed commissioners in the several counties. They were required to report to the sub-district commanders. The sub-districts were arranged as follows:

Sub-district of Richmond, Brevet Maj.-Gen. R. S. Granger in command, with headquarters at Richmond.

Sub-district of Fortress Monroe, Lieut.-Col. George Gibson, Jr., in command, with headquarters at Fortress Monroe.

Sub-district of Petersburg, Brevet Maj.-Gen. George Stoneman in command, with headquarters at Prospect Station, Prince Edward's County.

Sub-district of Lynchburg, Brevet Maj.-Gen. O. B. Wilcox in command, with headquarters at Lynchburg.

Sub-district of Winchester, Brevet Lieut.-Col. W. S. Franklin in command, with headquarters at Winchester.

Sub-district of Alexandria, Maj. Joseph Stewart in command, with headquarters at Alexandria.

Sub-district of Fredericksburg, Brevet Lieut.-Col. James Johnson in command, with headquarters at Fredericksburg.

A board of five officers was appointed by the commander of the district to select persons to form boards of registration throughout the district. An army officer was to be selected as a member of each board. The other members were to be taken from honorably discharged volunteers, and from citizens who were not only loyal at the time, but who had always been loyal to the government of the United States. Certainly there was not more than one in ten thousand of this latter class in Virginia. The practical effect of the requirement — which was in strict conformity with the Reconstruction acts — was to give the appointments as registers to United States officers and discharged soldiers.

By a general order of May 14, an association of colored men in Richmond, styled "The Lincoln Mounted Guard," was directed to lay aside entirely its military character. Its members were forbidden to parade or to appear in the streets in uniform with arms of any kind, or with field music, or to assemble in any place for the purpose of parade or drill. They were notified that they must in all respects maintain a purely civic character.

A general order was issued July 26, requiring sub-district commanders to report for the action of the commanding general the cases of all state, county, and municipal officers who were disloyal to the government of the

United States, or who used their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of the acts of Congress. Vacancies in such offices were to be filled by temporary appointment, to be made by the commanding general. All who were appointed were to be required to take the test oath of July 2, 1862. The governor, courts of law, and city authorities were invited to recommend suitable persons for such appointments. Another order of the same date amended a former instruction to registrars. It excluded from registration, the governor, lieutenant-governor, secretary of state, auditor of public accounts, second auditor, register of the land office, state treasurer, attorney-general, sheriffs, sergeants of a city or town, commissioners of the revenue, county surveyors, constables, overseers of the poor, commissioners of boards of public works, judges of the supreme court, judges of the circuit courts, the judge of the court of hustings, justices of the county courts, mayors, recorders and aldermen, coroners, escheaters, inspectors of tobacco, flour, etc., clerks of the supreme, district, circuit and county courts, and of the court of hustings, and attorneys for the commonwealth. Not only were these officers excluded, but all persons who had at any time in former years filled the like offices were excluded from the right to register and to vote. Of county officers there were thousands either in service or on the retired list. The justices of the peace were not compensated with fees for their services; but as they were exempted, *ex officio*, from mustering with the militia, from working on the roads, and from serving on juries, these offices had been sought after and distributed by the governor with a liberal hand and with little regard to the public needs. There was also a constable for every magistrate, or at least for every magistrate who had much business to do. Besides these persons, all others were excluded from the right to register and vote who had in any capacity taken an oath to support the Constitution of the United States, and afterwards joined the Confederates. In this class were army and navy officers, members of Congress, members of the state legislature, postmasters, and, perhaps, attorneys-at-law. It is not to be wondered at, therefore, that the returns of the tax-lists showed that there were nearly twenty thousand more white male adults taxed than were registered.

A general order dated September 12, announced that an election would be held for delegates to a state convention to frame a constitution, and to test the sense of the registered voters upon the question whether such convention should be held. The election was fixed for the 22d of October. Regulations were made for it in conformity with the acts of Congress. The first registration of qualified voters showed that there were in the State of Virginia 115,068 white voters, and 101,382 colored voters. But it happened in the apportionment of representation, that only forty-seven election districts contained white majorities, while fifty-eight election districts contained colored majorities. In a note to the official report, this anomaly is

explained by the statement that the white majorities in the western counties were very large, while the colored majorities in the eastern counties were comparatively small. A second registration showed 118,011 white voters and 104,891 colored voters. The election resulted, of course, in the choice of a large majority of Republican delegates, and in favor of holding the convention. On this last point the vote cast amounted to 169,229, of which 76,084 were cast by white men, and 93,145 by the blacks. The vote for a convention was 107,342, and against a convention 61,887. Of the white voters 14,835 were for a convention. If all the registered whites had voted there would still have been a small majority in favor of the convention. It is probable that an active campaign on their part would have prevented so large a defection from their ranks as actually took place. Of the 105 delegates chosen, seventy were "Republicans," and thirty-five were "conservatives"; and of the seventy Republicans, twenty-five were colored men.

The Virginia Republicans, soon after the enfranchisement of the negroes, became divided between the men of moderate and men of radical views. The latter constituted an overwhelming majority of the party. John M. Botts, a man of talent and a Unionist, well known to politics from the time of President Tyler, was the leader of the moderates. He had been imprisoned in Richmond at the beginning of the war, on account of his outspoken devotion to the Union. But his eloquence could make no headway against the surging tide of radicalism. It was led by one James W. Hunnicutt. He was the sparkling phosphorescence of its topmost wave. The first meeting of the party after the passage of the Reconstruction acts was held in Richmond on the 17th of April, 1867. The resolutions adopted on that occasion were not of an extreme character. But, in the counties, such meetings were signalized by utterances that were well calculated to excite the white people in a high degree. Mr. Botts proposed a meeting of the conservative Union men of Charlotteville on the 4th of July. But at a meeting on the 12th of June, called for the purpose of bringing about harmony between the two wings of the party, it was agreed to hold a convention at Richmond on the 1st of August. At the preliminary meeting, Senator Henry Wilson, of Massachusetts, and Mr. John Jay, of New-York, were present, with Mr. Botts and Mr. Hunnicutt. When the so-called convention assembled, there was such a crowd of negroes in it that Mr. Botts and his friends decided to take no part in it. Hunnicutt had gathered his crowd from the highways and by-ways of Richmond and other towns. The assembly had no claims to be recognized as a representative body. This charge was made against it, even by a colored speaker. The convention, or crowd, after getting to the park, adopted, without alteration, the resolution that had been adopted at the meeting of April 17. The next day there was a public meeting in the park. It was addressed by Mr. Botts. The conservatives appear to have succumbed to the dominant element.

In the month of November following, Hunnicutt was arrested on the charge of having used incendiary language in a speech to the colored people of Charles City County. The language charged in the indictment was, "you [the colored people] have no property. The white race have houses and lands. Some of you are old and feeble, and cannot carry the musket; but you can apply the torch to the dwellings of your enemies. There are none too young. The boy of ten and the girl of twelve can apply the torch." Hunnicutt denied the charge. He was a delegate to the constitutional convention; but, by order of General Schofield, he was bound over in a bond of $5,000, to appear before the Charles City County court, ten days after the adjournment of the convention.

The constitutional convention met in the hall of the House of Delegates, in Richmond, Nov. 3, 1867. Judge John C. Underwood, of the United States District Court for the Eastern district of Virginia, was elected president. After the election of officers and the appointment of committees, it took a recess till the 2d of January, 1868. It then continued in session till the 17th of April, when it finally adjourned. It adopted a state constitution, but made no provision for submitting it to a vote of the people. There was a well-founded apprehension that the people would reject it.

The bill of rights adopted by the convention declared the freedom of all men, and the perpetuity of the Union; it prohibited slavery, and declared for equal rights and privileges. All this was well. It met universal assent. But the clauses relating to the right of suffrage and to a test oath caused a warm debate in the convention, and led to a division among the Republicans, which proved fatal to the ascendancy of that party in the state. The first section of the third article provided for the disfranchisement of all classes of persons who were excluded from the right to vote for delegates to the convention. All who had, prior to the war, held any civil office and had participated in the rebellion were embraced in this formidable list of the excluded from political privileges. By the seventh section of the same article, all the higher state officers, including members of the legislature, were required to take and subscribe the test oath, or "iron-clad," of July 2, 1862. The effect of this would have been to exclude almost every competent Virginian from office. On this head, General Stoneman, who succeeded General Schofield as commander of the First district at Richmond, stated in his report of the 31st of October, 1868, that, in appointments made by his predecessor, the available material — that to which he was restricted by the Reconstruction acts — had been nearly exhausted. A vacancy on the bench had to be filled by an army officer. This instance was cited to show the impossibility of carrying on the state government in the event of the thousands of state officers suddenly ceasing to perform their functions. Their places could not be filled under the provisions of the reconstruction laws.

Virginia was fortunate in having such a military dictator as General Stoneman in her most critical stage of reconstruction. He filled a large part in the military relations of that time. He was only next to General Hancock. He was born on the shores of Chautauqua Lake, in western New York, on the 8th of August, in the year 1822. He is of the Teutonic race, as his name indicates. He is the eldest of a family of ten children. His early years were passed on his father's farm, and in the lumber camp. His life is noteworthy in many regards. From the year of his West Point graduation, in 1846, to 1853, he served with his company of dragoons on the Pacific slope. He made the first government survey for a railroad across the continent. It was substantially adopted by the Southern Pacific Railroad. In 1855, he was a captain in the Second cavalry; with him in that regiment were Albert Sidney Johnston, Robert E. Lee, George H. Thomas, W. J. Hardee, Earl Van Dorn, E. K. Smith, John B. Hood, and others of lesser note. Captain Stoneman spent two years in Europe before the war. He availed himself of the opportunity to study foreign armies, and more especially their cavalry service. The Civil War found him on the Rio Grande. He was guarding the frontier of Texas against the incursions of Mexican bandits and plunderers. Refusing to recognize the authority of General Twiggs, then in command of Texas, to surrender the troops under his command, Captain Stoneman seized a steamer, and escaped with his company. He reached Washington in time to lead the cavalry advance guard across Long Bridge, on the memorable night of May 23, 1861.

Upon the assignment of General McClellan to the command of the Army of the Potomac, Captain Stoneman was appointed by the President brigadier-general and chief-of-cavalry. Under General Burnside, he commanded the Third Army Corps, and under General Hooker, he was promoted to major-general. Unlike McClellan, Hooker appreciated the value of cavalry. He therefore assigned Stoneman the duty of organizing what soon became the famous cavalry corps of the Army of the Potomac. Stoneman's cavalry battles and raids are the most thrilling incidents of the war. Shortly after the battle of Gettysburg, the Secretary of War determined to establish a cavalry bureau in the War Department, for the purchase and distribution of all the horses for the whole army, this duty having been, up to that time, performed by the Quartermaster Department. General Stoneman was called to Washington to organize it. By his request, he was soon relieved from the duty, and assigned to the command of the Twenty-third Army Corps, then in east Tennessee. Upon the reorganization of General Sherman's army, he was assigned to the cavalry command. He held this command until the capture of Atlanta. After that, he was engaged in several successful expeditions in Virginia, Kentucky, Tennessee, and North Carolina. At the time of the surrender of Lee's army, Stoneman, with his command, was at Salisbury, North Carolina. He was in complete possession of Lee's communications with the rear. The bridges were burned and the tracks destroyed.

To the credit of General Stoneman, be it said, that during his command of the First district, he never exercised the authority with which he was clothed, when there was any law of the State of Virginia governing the case, or applicable to the question involved. He referred all such cases to the investigation and determination of the courts. His administration of the affairs of the state was eminently conservative. It was satisfactory to the people. Dissatisfaction was expressed only by the "carpet-baggers." Their principal causes for complaint were that he did not make places for them to fill; that he did not appoint negroes to offices, and that he did not make the people of Virginia sufficiently anxious to get back into the Union. To appease those creatures and satisfy their demands, President Grant found it expedient to relieve General Stoneman from the command of the district. He sent him to Arizona. It was then the Botany Bay of the army. There he served until, by his own request, he was put upon the retired list in 1872. Since then he has filled the position of Railroad Commissioner of California. At the last general election in that state, he was elected governor for four years. His majority was unprecedented. Governor Stoneman, considering the hardships and exposures he endured in the service of his country, is physically well preserved. He is six feet tall, and of proportionate weight. He has strongly-marked features. He is erect in carriage, and has that fine military presence peculiar to the beau ideal cavalry commander. No officer of the army has filled more varied, or more delicate and responsible positions. He is a soldier who has been always a citizen. He is a citizen. He is one of the very few officers of the regular army who have been elected by the people governor of a state. He well deserves to wear the civic crown.

A joint resolution passed by Congress in February, 1868, provided that the persons then holding civil offices in Virginia and Texas, who could not take the test oath, should be removed, and that the vacancies thus created should be filled by the appointment of persons who could take it. General Stoneman issued an order on the 16th of March following, announcing the removal of the civil officers banned by this joint resolution. Within a week following, he reported to the Attorney-General at Washington that, of the 5,446 civil offices in the state, 2,504 had been filled by his predecessor, General Schofield, and himself; and that, of the remainder, 329 incumbents could take the test oath, leaving still 2,613 vacancies to be filled. These facts demonstrated the impolicy of the course pursued by Congress. If any of the 5,446 office-holders in the state had refused to perform their duties, it would have been quite easy to find others ready and competent to take their places. There could be no necessity for the disfranchisement of the whole intelligent population of the state. The effect of the measures was to put a premium on political prostitution and perjury. It invited to the South a horde of hungry adventurers, who robbed and oppressed the people in the name of freedom and Union, and who ruined the public finances in the

name of philanthropy and progress. Among the removals from civil office was that of H. H. Wells, the governor. The removal was not made on the ground of Mr. Wells' inability to take the test-oath. No such inability existed. Governor Wells was removed because, under the reconstruction laws, all the powers of the chief executive of the state devolved on the commanding officer of the First military district, by whom they were assumed, and would be performed. General Stoneman was shortly afterwards removed from the command of the First district, and General Canby was assigned to it. Until the arrival of the latter officer, Gen. Alexander S. Webb was to act as commander. General Webb's earliest official acts were to restore Mr. Wells to the office of governor, and to proceed to fill the vacancies in the civil offices by the appointment thereto of army officers. In restoring the civil governor, he violated General Grant's order of March 20, 1867.

General Canby assumed command of the First district of Virginia on the 20th of April, 1869. On the 21st of May, he issued an order for an election for the ratification or rejection of the state constitution which had been adopted by the convention in April of the preceding year. Congress had, in compliance with the earnest petitions of the more intelligent and respectable Republicans, authorized a separate vote to be taken on the disfranchising clause before referred to, and on the test oath. The election was held on the 6th of July. The total vote on the question of ratification was 215,422. There were 206,233 for, and only 9,189 against ratification. The total vote on the disfranchising clause was 208,765 — 84,404 being in its favor, and 124,361 against it. The test oath clause was rejected by a majority of 40,992 votes. This co-operation of the Virginia Democracy with liberal Republicanism saved the state from the misfortunes that overtook North Carolina and other states. The postponement of the election for a year was also attended with good results. It gave an opportunity for the President and Congress to see what sort of men they had installed in power in the South. It tended to relax their rigorous policy. The authority given by Congress, on the recommendation of the President, for the submission of the constitution to the popular vote, and for a separate vote on the disfranchising clauses, furnishes conclusive evidence of the growth of a more generous feeling.

An election for governor and state officers was held on the same day that the vote was taken on the constitution. Gilbert C. Walker, then a liberal Republican, was elected governor by a vote of 119,535 as against 101,204 for H. H. Wells, the provisional governor. The conservatives elected thirty of the forty-three state senators and ninety-five of the 138 members of the house of delegates. Six of the Republican senators and eighteen of the Republican delegates were colored men. The legislature met on the 5th of October. Previous to that time Mr. Wells had resigned the pro-

visional governorship, and Mr. Walker had been installed in his place. General Canby held that the members of the legislature should be required to take the test oath; but the Attorney-General of the United States gave an opinion to the contrary. It was absurd to say that the members of a state legislature should be sworn into office under an oath prescribed by an act of Congress, which they could not take without perjury. The governor and legislature, however, were still provisional, until the state should be received back into the Union under a formal act of Congress. The bill for this purpose became a law on the 26th of January, 1870, and contained the requirement that every member of the legislature, before taking his seat, should make oath either that he had never as a member of Congress, as an officer of the United States, or as a state officer or legislator, taken an oath to support the Constitution of the United States and afterward engaged in insurrection or rebellion against the same, or that the disabilities imposed upon him by the Fourteenth Amendment had been removed. From that date the Virginians have enjoyed the rights and prerogatives of self-government. The white race was dominant in both branches of the legislature, and in the person of Governor Walker. He was a Northern man who had gone into the state from New-York during the war. He was afterward in Congress from Virginia, as a Democrat. He returned to New-York City a few years ago. His death has just been announced.

Although Northern men have been elected to office by the Republicans, — together with men of the African race, — still it cannot be said that Virginia, like most of the other Southern States since the era of reconstruction, has been subjected to the yoke of the carpet-baggers and negroes. Her political status, recently, has a history connected rather with her fiscal than her social order. This chapter on reconstruction, therefore, as regards Virginia, will be closed with the following statement of her financial condition. From the report of the sub-committee of the joint select committee of Congress, in 1872, the following facts are gathered:

Debt of Virginia in 1860, ...	$31,938,144
Old debt in 1865, ...	41,061,316

This is exclusive of the repudiated debt incurred in aid of the rebellion, which amounted to $7,505,724. In 1870, the "old debt," by the accruing of unpaid interest, had risen to $45,872,778. In 1872, there was a slight reduction, about $300,000, from the figures of 1870. In 1860, the state held assets, in the shape of railroad and canal aid and bank stock, amounting to about forty million dollars; but, the bank stock having been lost or squandered during the war, there remained in 1865 only about twenty-seven millions of assets, consisting of unproductive railroads and canals.

CHAPTER XXVIII.

RECONSTRUCTION ACTS IN THE SECOND MILITARY DISTRICT.

NORTH AND SOUTH CAROLINA — GENERAL SICKLES ASSIGNED TO COMMAND — THE PRINCIPLES OF THE RECONSTRUCTION ACTS APPLIED — REMOVALS OF LOCAL OFFICERS — OBJECTIONS FROM THE PRESIDENT — STATE "STAY LAWS" ENFORCED BY GENERAL SICKLES — THE UNITED STATES MARSHAL OF NORTH CAROLINA DISREGARDS THE "STAY LAW" — HE IS SUSTAINED BY THE PRESIDENT — GENERAL SICKLES RESIGNS THE COMMAND — GENERAL CANBY SUCCEEDS HIM — HE APPROVES OF SICKLES' COURSE — THE REGISTRATION OF VOTERS IN THE TWO STATES — THE WHITE AND COLORED VOTES — THE CONVENTIONS — THE NEW CONSTITUTIONS — THE LEGISLATURES AND THE LEGISLATION — THE STATE OFFICERS — THE METHODS OF THE "CARPET-BAGGERS" AND THEIR NATIVE ASSOCIATES — NOT MAKING BRICKS WITHOUT STRAW — THE ISSUE OF FRAUDULENT BONDS — THE TAXATION AND THE DEBTS — THE PLUNDERERS DISPERSED — A JUSTIFIABLE REVOLUTION — CONGRESSIONAL CONDITIONS OF REHABILITATION — THEIR ACCEPTANCE — THE LONG PROBATION — 1865 TO 1877.

GENERAL Daniel E. Sickles assumed the command of the Second military district, composed of North and South Carolina, with headquarters at Charleston, on the 21st of March, 1867. On the same day he issued an order announcing his assumption of authority, and the principles by which he would be governed. The latter were those of the Reconstruction acts of Congress. For the protection of the inhabitants in their persons and property, and the suppression of insurrection and disorder, the local civil tribunals were permitted to take jurisdiction of and try causes, excepting only such as might, by order of the commanding general, be referred to a commission or other military tribunal for trial. The order stated that the civil government then existing in North Carolina and South Carolina was provisional only. It was subject to the paramount authority of the United States. It might at any time be abolished, modified, or superseded. Local laws and municipal regulations, not inconsistent with the Constitution and laws of the United States or the proclamations

of the President, or with such regulations as might be prescribed in the orders of the commanding general, were declared to be in force. In conformity with these principles, the civil officers were authorized to continue the exercise of their proper functions. Every case of neglect or refusal on the part of the civil authorities to perform the duties required of them by law was to be promptly reported to headquarters by the post commanders. These officers were required to make arrests for crimes and offenses against the laws, whenever the civil officers neglected or failed to act. The commanding general appealed to the civil officers and to all good citizens to aid him in the delicate duties imposed upon him for preservation of order. A special order was issued on the 10th of April, in regard to affairs at Wilmington, North Carolina. By this order, two policemen of that town were removed, on the charge that they had "shown a want of discretion and judgment in the discharge of their duties, and had exhibited unwarranted violence in making arrests." This, and similar acts on the part of other district commanders, led to an elaborate opinion from the Attorney-General on the powers conferred upon the district commanders by the Reconstruction acts. The opinion was to the effect that no authority had been given them to remove the civil officers of the states, or to appoint others in their places. This is the same opinion to which reference is made on page 378, *ante*. On the 14th of June, General Sickles sent a telegram to the Attorney-General, which read as follows: "In the present condition of these states, it is not practicable to afford adequate security to persons and property, unless the commanding general of the district is authorized to remove civil officers who fail to perform their duties."

General Sickles regarded the opinion of the Attorney-General as an impeachment of his administration. Other district commanders had construed their powers in favor of removals, and had acted accordingly. He tendered his resignation in a dispatch dated June 19. It was not acepted, however. An order issued by him on the 11th of April forbade sheriffs to execute civil process for the sale of property. This was in the nature of a stay law. It conformed to the act of the state legislature. It led to his removal from command of the district. The administrative officers of the two states obeyed the order. The marshal of South Carolina did likewise; but the marshal of North Carolina disregarded it. He attempted to sell the property of parties in Wilmington, under executions issued by order of Chief Justice Chase, presiding in the Circuit Court at Raleigh, in June of that year. General Sickles' subordinate, Colonel Frank, stopped the deputy in the execution of his duty. The deputy was instructed by the marshal to suspend the sale until General Sickles could be heard from. The latter officer sustained Colonel Frank. The marshal reported the facts to the Attorney-General, who laid the matter before the President. The course of the marshal was fully sustained. Chief Justice Chase had said on the 6th of June, when ad-

dressing the Raleigh bar at the opening of his circuit in reference to the military government under the act of March 2, 1867: "This military authority does not extend in any respect to the courts of the United States." This was, no doubt, the first judicial interpretation of the act, and probably General Sickles had no information of it. He had too much regard for lawful, judicial authority ever to attempt to resist it. General Sickles was relieved, August 26, from the command of the district. He was directed to repair to New-York on leave.

Prior to his being relieved, General Sickles issued a general order announcing that a registration of voters under the Reconstruction acts would commence on the third Monday in July. Instructions for this purpose were embraced in the order. On the 6th of July, however, he proposed, in a letter to the Adjutant-General, that the work should be postponed until the rights of certain classes to registration should be determined by Congress, or otherwise. General Canby superseded General Sickles on Sept. 5, 1867. Among his first important acts as commander of the district was a regulation for the selection of juries. He ordered that personal fitness, and not color, should be the rule. In his annual report of Aug. 31, 1868, General Canby expressed his approval of General Sickles' order for the arrest of the execution of civil process. The order continued to be enforced against process out of the state courts, because, as stated, the legislature had passed a stay law, on which the order was based. It is true that stay laws are unconstitutional, but martial rule is avowedly above constitutional restraints. This action of Generals Sickles and Canby evinced a strong disposition on their part to respect and enforce the state laws.

The number of persons registered under the acts of Congress, and authorized to vote for delegates to the state convention of 1867, as well as on the question whether a convention should be held, was 178,665. Of these, 93,006 voted for a convention, 32,962 voted against a convention, and 52,697 refrained from voting. A large majority of the delegates chosen were Republicans, in name at least, though most of them were ignorant of the real import of the term. The constitution framed by this convention enfranchised the whole male population of voting age,— twenty-one years,— without regard to race or color. In other words, the class which had been excluded from the polls in electing delegates to the convention, and in the ratification of the constitution, was enfranchised. They were given equal privileges to those conferred on their former slaves by the Reconstruction acts. The revised registration, which was made on April 1, 1868, only six months after the first, showed the voting population of the state to be 198,873, or 20,208 more than the original registration under the Reconstruction acts. These additional voters, who were mostly white, did not vote, however, at the first election for governor, state officers, legislature, and congressmen. This was owing to an amendatory act of Congress, passed on March 11,

1868, only six weeks before the state election under the new constitution. It provided: "That the constitutional convention of any of the states mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution, the registered voters may vote also for members of the House of Representatives of the United States, and for all elective officers provided for by the said constitution; and at the same election, the officers who shall make the return of the votes cast on the ratification or rejection of the constitution, shall enumerate and certify the votes cast for members of Congress." It is obvious that this act of Congress, by which ten or twelve thousand of the most intelligent people of the state were deprived of the right to vote at that election, was a flagrant violation of the Constitution of the United States, as well as of the spirit of the new constitution which was to be put in force. Under that new constitution, persons disfranchised by the Reconstruction acts were to be made qualified voters.

According to the report of the chief of the bureau of civil affairs, the original registration showed the white electors to be 106,721 in number, and the blacks to be 72,932; total, 179,653. The vote in 1868 on the ratification of the constitution was—white, 117,431, and colored, 79,445; for ratification, 93,118; against it, 74,009. From these figures, and in view of the fact that nearly every colored man voted, and voted one way, it would follow that of the 93,006 votes cast for the convention, and the 93,118 votes cast for the ratification of the constitution, not more than twenty-one or twenty-two thousand were white votes. It is singular that the six thousand five hundred and odd colored votes which were added by the revised registration failed to increase the Republican vote for ratification above that cast for the convention. Upon this view of the case the white vote for rejection of the constitution was considerably more than double the number cast against holding the convention. The Republicans elected large majorities to both branches of the legislature, thirty-eight to twelve in the senate, and eighty-two to thirty-eight in the house of representatives. They also elected five of the seven Representatives to Congress, among them John T. Deweese, a Northern man. Holden's majority for governor over Thomas S. Ashe, Democrat, was 18,641. The elections in 1870 and 1872, when the vote was universal, as the new constitution provided, reversed these majorities.

A history of reconstruction in North Carolina would be incomplete if it failed to give some account of the wholesale bribery and peculation that were practiced by majorities in the constitutional convention of 1867–'68, and in the legislature and by state officials in 1868–'69.

The Democrats came into power, or into the control of the legislature, in 1870. They appointed investigating committees. The details of the sworn testimony fill volumes. Want of space confines the author to a brief statement of a few of the cases.

George W. Swepson, a citizen of the state, a banker of Raleigh, president of the western division of the Western North Carolina Railroad, and a principal actor in these transactions, was brought before one of these committees. He stated on oath, in reply to a question as to the methods used to secure appropriations in aid of his and other roads, that he was told by "Littlefield and Deweese, lobby lawyers," that he could get no bills through the legislature in aid of his railroad unless he entered into the same arrangements that other railroad presidents had made. He was to pay them ten per centum in kind, of the amount of the appropriations. Littlefield passed for an ex-Union general, was a man of imposing presence, and possessed great influence with the unsophisticated native Republicans, white and colored. Deweese was also an ex-Union officer, whose character will be understood when it is stated that he bought his nomination to Congress from a colored rival, and resigned within three months after taking his seat, in order to avoid expulsion for selling a cadetship in the Annapolis naval school. Swepson, who had no repugnance to such methods, admitted that he accepted the terms of Littlefield and Deweese, and paid to them, or their order, $241,000, and some odd hundred dollars in money and bonds, for their services in procuring the passage of acts making appropriations for his railroad. He stated that he paid the amount in various ways — sometimes upon Littlefield's order, sometimes by taking up his notes and those of other parties at his request, sometimes in money, and sometimes in bonds. Swepson referred the committee of investigation to his clerk, G. Rosenthal, who gave a list of the parties to whom the money was paid. This list embraced nearly every leading Northern member of the convention and legislature, and not a few natives, "without regard to race, color, or previous condition of servitude."

Among the persons named as recipients of large sums were Gen. Joseph C. Abbott, who went from New Hampshire, and who was elected a United States Senator; George Z. French, a prominent member of the convention and legislature; and Colonel Estes, a delegate to the convention, who was appointed collector of internal revenue. Mr. A. W. Tourgee, who was a leading member of the convention, and a number of others were said to have received smaller sums. Littlefield and Deweese, of course, drew their dividends, amounting to a large sum. The parties accused were allowed to go before the committee and give explanations of their connection with this fund. In some instances comparatively small amounts appear to have been paid out for legitimate objects, and under circumstances which show no complicity in the unlawful conspiracy against the treasury of the state. But this cannot be said of the transactions of the leading men in the convention and legislature with the managers of this corruption fund. Mr. Tourgee had been a captain or lieutenant in one of the Union regiments. After the war he remained in North Carolina. At the time he located there he was far

from being in affluent circumstances. He was not one of those wealthy Northern gentlemen who went South on "a fool's errand." But he was not without thrifty enterprise, — in office-seeking. Before obtaining a license to practice law, he got elected to the office of circuit judge, at a salary of $2,500 a year, for a ten years' term. While on the bench he was for three or four years one of the commissioners for codifying the state laws. This office brought him an additional two thousand a year. When his judgeship expired by limitation, he obtained the lucrative office of United States pension agent. Altogether, it may be said of Mr. Tourjee, that he did not fill the description of one who had to make "bricks without straw."

Swepson, as a patron of the lobby, played a princely part. There is no evidence that he shared in the spoils, except through the large appropriations to his railroad. Other railroad presidents were made to bleed freely, as a consideration for the passage of measures favorable to their roads. The president of the Chatham road stated that he sold Littlefield $100,000 worth of stock, on a credit of ninety days, when the bonds were worth sixty-five cash in New-York. The president of the Williamston and Tarborough road paid $10,000 for a charter. The same company gave Littlefield a contract for furnishing cross-ties, at a liberal rate, in a section of the state which the contractor had never seen. Another case was that of a committee of the legislature who had contracted with parties for eight thousand acres of land on which to build a penitentiary. They stipulated to pay twelve dollars per acre, in state bonds, and the bonds were issued to the parties. The land consisted of poor pine barrens, within a few miles of Raleigh. This the contractors purchased, after making the contract, at sixty-five cents per acre. The fraud was detected, and the legislature, which was still in session, repudiated the bonds.

The convention and legislature appropriated, altogether, about twenty-five millions in railroad bonds. The new constitution which these men had made provided that in every instance in which such appropriations should be made in favor of a new road, the question should be submitted to the popular vote for ratification. Furthermore, it contained the following provision: "Until the bonds of the state shall be at par, the general assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the state, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall in the same bill levy a special tax to pay the interest annually." The state bonds were greatly below par, and the question had not been submitted to the people for approval. Moreover, another clause limited the amount of taxes to two dollars in the hundred, which limit had already been exceeded. On these grounds the Republican supreme court decided that nearly half of the twenty-five millions of bonds authorized by the legislature were unconstitutional. Chief Justice Pearson gave the opinion on this point, which was concurred in by a majority of the

court. In 1880, the invalidity of the special tax bonds was declared by an amendment to the constitution. The legislature was by this amendment forbidden to pay, either directly or indirectly, any debt or bond incurred or issued by the constitutional convention of 1867–'68, or by the legislature elected in 1868, at any of its sessions, except the bonds issued to fund the interest on the old debts of the state, unless the proposition to pay were first submitted for ratification to the people of the state, and approved by a majority of the qualified voters. This amendment became necessary in order to put a stop to the efforts of the holders of the fraudulent bonds and their attorneys to overturn the decisions of the court.

The bonds authorized by the convention and legislature, according to the printed report of J. M. Worth, the state treasurer, amounted to $23,640,000; of which the convention had authorized $2,150,000, and the legislature $21,490,000. Of the convention bonds, $800,000 were not issued and $170,000 were returned, leaving $1,180,000 outstanding. Of the bonds authorized by the legislature, $5,290,000 were not issued; and $4,493,000 were returned to the treasury, leaving $11,707,000. The supreme court of the state declared $5,150,000 of these bonds to be unconstitutional, and the people, as above stated, declared the remainder invalid by a constitutional amendment. It is not to be inferred from the foregoing statement, that the court declared any of the bonds to be constitutional. It could only give decisions upon the cases brought before it.

The outcry of the people of North Carolina against the reckless extravagance and unconstitutional legislation of the carpet-baggers and their native coadjutors was loud and deep. The purchasers of the bonds in New-York were not imposed upon. They had full warning of the character of the bonds they were buying. They bought below par, on speculation, hoping to get rid of them before they should fall lower. Indeed, it was only professional stock-jobbers who got hold of them. They managed to save themselves from loss. For months, the Raleigh lobbyists, among them several members of the convention and legislature, railroad men, and state officials, were in New-York, buying and selling these bonds to each other, really or nominally, and having their sales published, in the hope of inveigling capitalists into the snare. But they failed, utterly, disgracefully. They were hoist by their own petard. They deserved their fate.

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South Carolina being a part of this district, the general orders enforced in that state have for the most part been already presented in their essential features. It is due to General Sickles to say that during the brief period of his authority in the district, he manifested a kindly spirit toward the people, and that his most arbitrary acts seemed to be inspired by a benevolent purpose; for example: — his enforcement of the stay law of North Carolina and his application of the same rule in South Carolina.

A large majority of the population of South Carolina has always been of the negro race; the proportion being quite three-fifths colored to two-fifths white. The universal enfranchisement of the negroes by the Reconstruction acts, and the disfranchisement of some thousands of the most intelligent and wealthy white men, was, therefore, equivalent to turning society upside down. It was the enthronement of stark ignorance, accompanied by abject poverty. Yet the more intelligent among the blacks displayed good sense, as well as correct feeling, at the beginning of the new order of things. The mass of the colored people seemed to be easily impressed with the importance of a good understanding with the whites. Soon after the passage of the Reconstruction acts, a meeting was held at Columbia to celebrate the great event. Eminent white gentlemen were invited to be present and address them. Among others, Gen. Wade Hampton accepted the invitation. He addressed the meeting and pointed out the identity of interests between the two races. He advised the colored people to seek political affiliation with the best class of whites, whose interest it was to restore peace, order, and prosperity to the South. Beverly Nash, a colored speaker, declared that the negroes recognized the Southern white man as the "true friend of the black man." He was in favor of removing political disabilities. At Charleston the colored men met in convention and formed the "Union Republican Party of South Carolina." They adopted a platform free from the rancor which is inspired by the antagonisms of race and party. At a meeting held at Columbia, Governor Orr addressed the people. He advised them to keep clear of national politics and the great party organizations of the country, to devote themselves to the interests of the state, and to seek counsel of those who were most concerned in her welfare. The resolutions adopted declared that "universal suffrage accords with the principle that all free governments are founded upon the consent of the governed." They were in favor of a constitution for South Carolina that would grant equality before the laws, irrespective of race, color, or previous condition. They were in favor of free schools "alike for all," and of a reform in the criminal code of the state. It is not clear whether mixed schools for the two races were meant. The idea of mixed schools is of Northern origin. The negroes, themselves, prefer separate schools, taught by colored men and women.

General Sickles addressed the freedmen at Columbia, to whom he gave excellent advice. He told them that they should cultivate friendly relations with their former masters, and refrain from extravagant demands and offensive language. He said: "It will not be necessary, nor can it be otherwise than injurious to yourselves, for you to neglect your regular employment and associations to attend to political affairs. I promise you that, without any such sacrifice on your part, every man in the Carolinas entitled to a voice in the decision of the great questions to be passed upon under my supervision, shall have a fair chance to act his part without let or hindrance from any

one." In addressing the Board of Trade at Charleston, General Sickles reiterated his purpose, as expressed in his first general order, to make use of the aid of all faithful civil officers in the state in maintaining order, and in efforts to promote the material prosperity of the commonwealth. He called upon all good citizens to aid him in reorganizing the institutions of the state. Governor Orr, on the same occasion, advised acquiescence in the measures of Congress, although they were objectionable in several respects. He deplored the disfranchisement of many of the best citizens; he deprecated the enfranchisement of the colored race without regard to their education and their fitness to exercise the right of suffrage.

The registration of voters was completed in October. Of the whites there were 46,346, and of the blacks, 78,982, registered. On the 16th of that month, General Canby, in a general order, directed that an election be held Nov. 19 and 20, for delegates to a state convention to frame a constitution. The regulations for registration, holding the election, counting and announcing the result of the vote were altogether similar to those which have been stated with reference to North Carolina. The number of delegates chosen was ninety-seven. The "Union Republicans" held a convention at Charleston in October, for the purpose of securing organization and concert of action. A like assemblage of the "conservatives," under the leadership of Gen. Wade Hampton, ex-Governor Perry, and Judge Aldrich, was held at Columbia. The conservatives put forth an address, in which the plan of reconstruction was condemned in the strongest terms.

The white people took very little part in the election of delegates to the convention. Of the 125,328 registered votes, only 71,087 were cast on the question of holding the convention, and of these 68,876 were colored, cast for, and 2,081 white, against the convention. There were only 130 white votes for the convention. Of the ninety-seven delegates chosen, sixty-three were colored, and thirty-four were white, and of the whites nearly or quite all called themselves Republicans. According to the revised registration returns, the number of the black voters was 80,286, and the white, 47,010.

The convention assembled by order of General Canby, in Charleston, Jan. 14, 1868. A. G. Mackey, an old and respectable citizen of the state, of northern birth, was elected president. Governor Orr was invited to address the body. He spoke earnestly. He expressed his regret that the white people who were permitted to vote by the Reconstruction acts had very generally abstained from exercising the privilege; and that, as a consequence, the "intelligence, refinement, and wealth of the state" were not represented in the convention. He urged the importance of moderation. He hoped that all political disabilities would be removed, and that provision would be made for the education of both races. He said that he regarded the doctrine of secession as exploded, and that the highest allegiance of the citizen was due to the general government.

The convention passed an ordinance "staying" executions under civil process for the collection of debts. General Canby had it enforced. A constitution was adopted which abolished slavery, and placed all persons on an equality before the law. The carpet-baggers, who prepared the constitution and dictated measures generally, put in a saving clause for themselves, in the article prescribing the qualifications of the governor. No person was to be governor, "except at the first election under the constitution," who had not been a citizen of the United States and a citizen and resident of this state for two years next preceding the day of election. The persistent secessionists were shelved by requiring of all officials an oath renouncing forever any right of the state to secede. Suffrage was made universal, except as to those who were barred by the United States Constitution. The legislature was to provide a liberal system of free education. The compulsory attendance of children at school was to be required by law. A poll tax, and a tax on property were to be levied for the support of schools. This constitution was ratified by the popular vote in April, 1868. The majority was 43,470, in a total vote of 98,046. Only about half the white registered voters availed themselves of their privilege. Their sullen indifference brought its retribution.

The election of governor, assembly, and other state officers was held at the same time. It resulted in the triumph of the Republicans, as a matter of course. The governor and all general officers were elected by large majorities, and only a few "conservatives" were chosen for the legislature. The Democrats, or conservatives, forwarded to Congress an earnest protest against the acceptance of the constitution. They called attention to the eighth article, which, as the protest said, "enfranchises every male negro over the age of twenty-one, whether a convict, felon, or a pauper." This was an overstatement of the case as regards paupers. While in an almshouse, they were expressly excluded; but otherwise, not. The case was similar in respect to white convicts. Attention was called to the disfranchisement of "every white man who had held office in South Carolina."

Richard K. Scott, an officer of the Freedmen's Bureau, from Ohio, was elected governor. Lemuel Boozer, a native colored man, was elected lieutenant-governor. Franklin J. Moses was elected adjutant and inspector-general. He was a native white man, who had before and during the war signalized himself as an extreme secessionist. The secretary of state was Francis L. Cardoza, a colored man of education. The attorney-general was Daniel H. Chamberlain, of Massachusetts, who had served in the army of the Union. The state treasurer was Niles G. Parker, of Massachusetts; and the comptroller-general, N. J. Neagle, was from New-York, but said to be originally from North Carolina. Of the 124 members of the house of representatives, seventy-six were men of color, and Republicans, of course; and of the forty-eight white members, fourteen were Democrats. The sen-

ate consisted of thirty-three members, nine of whom were colored Republicans, and of the remaining twenty-four, all white, seven were Democrats. On joint ballot, therefore, the Republicans numbered 136, and the Democrats twenty-one. This body met on the 6th of July, 1868. The new governor was inaugurated on the 9th. The retiring provisional governor, James L. Orr, who had been elected by the white people in 1865, in competition with Gen. Wade Hampton, delivered an address, by invitation of the legislature, upon the condition of affairs. His suggestions were similar to those which have already been quoted from his speeches. The Fourteenth Amendment was ratified on the 9th, by a vote of 108 to 10. United States Senators were chosen; Thomas J. Robertson being selected for the short term, and Frederick A. Sawyer for the long term. Judges of the supreme court were also chosen. These were F. J. Moses, Sr., chief justice, and A. J. Willard and S. L. Hoge, associates.

Among the first measures introduced in the house of representatives was, "A bill to protect all persons in the state in their civil rights, and furnish the means of their vindication." It required, among other things, that hotel-keepers should entertain all comers who could pay their way, without discrimination as to color. The bill passed the house. It went to the senate. There it received important amendments before being adopted. The two houses failed to agree on these amendments, and the bill fell to the ground. An act was passed to enable the freedmen to buy lands. A land commission was established for the purpose of purchasing lands to be sold in small parcels, on favorable terms, to persons wanting permanent homes. Within a year 45,000 acres were thus bought up, and surveyed for re-sale.

At the next session of the legislature an act was passed making it unlawful for common carriers or any party or parties engaged in any business, calling, or pursuit, for the carrying on of which a license or charter was required by law, municipal, state, Federal, or otherwise, to discriminate between persons on account of race, color, or previous condition. As a Federal license was at that time required of inn-keepers, this law was applicable to them; but there was doubtless found some means of resistance or evasion. It applied also to chartered colleges and academies—even to such as were dedicated to the education of females. This law, if rigidly enforced, would have broken up every high school and college in the state. Acts of this character were not dictated by aspirations of the colored people for white and black association, but by the fanaticism or malevolence of the Northern adventurers.

The Fifteenth Amendment to the United States Constitution was ratified by a nearly unanimous vote, there being but one vote in opposition to it in the senate, and only three in the house of representatives. A law regulating the drawing of jurors from the list of voters was passed. It required that

the number of names of white voters on the lists should bear to the number of names of colored voters, as near as might be, the same proportion as the whole number of white voters bore to the whole number of colored voters in the township, city, or county, as the case might be. This arrangement assured the supremacy of the densest ignorance in the jury-box, in four-fifths of the state.

In February, 1870, a black man of Northern birth, J. J. Wright, was elected by the legislature to the office of chief justice of the supreme court. The next legislature, chosen in the fall, impeached Judge T. O. P. Vernon, of the circuit court, on charges of drunkenness, and of having issued and signed blank writs of *habeas corpus*, addressed to no one, and without designating the person to be brought before the court. He was allowed to escape the penalties annexed to these offenses by resigning. It seems to have been the rule to pardon criminals before the expiration of their terms of service in the penitentiary, in order to prevent their disfranchisement. This, however, was an exclusive privilege granted only to Republicans.

During the spring of 1870, a new political organization was formed. It was styled the "Union Reform Party." It was composed chiefly of Democrats, with a few Republicans. A convention of this party met in June, at Charleston, and nominated candidates for state officers. Judge R. B. Carpenter, an ex-Confederate soldier, was selected as the candidate for governor; and Gen. Matthew C. Butler, an ex-Confederate officer, now United States Senator, for lieutenant-governor. But the new party was doomed to overwhelming defeat. Governor Scott was re-elected by a majority of 33,500 in a total vote of 136,000; and his colored colleague on the ticket, Ranier, was elected lieutenant-governor by a majority of 31,000. The Republican platform complimented Governor Scott upon his "wise, economical, and honest" administration of affairs. It insisted on a "continuance of strict and close economy" in all departments of the government. The public debt had been augmented by two millions, it is true; and there was nothing to show for the expenditure except the sudden elevation of certain needy adventurers, and illiterate "field hands" from extreme poverty to affluence. There had also been a four-fold increase of taxes. This situation was heralded as a subject of public congratulation.

The legislature, in 1871, made the novel attempt to raise means by authorizing the issue of "sterling bonds." Having exhausted their credit at home, they vainly attempted to entice the English capitalists, by issuing bonds especially adapted to that market, which promised to pay six per cent. interest. The amount authorized was £1,200,000, or nearly six millions of dollars. But the bait was not caught at. The scheme fell to the ground. The bonded debt now rose from $5,790,000 in 1868, to $9,528,000 in September, 1871. Governor Scott, in an official statement made to the committee of Congress sent to investigate the condition of the "insur-

gent states," gave figures showing that the bonded debt, prior to the war, was $4,046,540.16; that the provisional government added $1,023,473.94, making $5,070,014.10; and that the amount of bonds issued by the Republicans, in their three years' administration, was $4,458,550. The public debt at the meeting of the legislature in November, 1872, was $15,851,000. The estimate of expenditures for 1873 was $2,054,000, in addition to $1,266,000 for the deficiency of 1871. There were contingent liabilities also, amounting to $4,797,000, arising from the indorsement of the bonds of railroad companies.

Franklin J. Moses, Jr., was elected governor in 1872. As already stated in this chapter, he was a native of South Carolina. His administration was even more corrupt than that of any of his predecessors. His father, then chief justice of the state supreme court, was an honorable man. Governor Moses was criminally indicted while in office, but he escaped conviction on some technical point in respect to the jurisdiction to try a governor in the courts before his removal by impeachment. Since his retirement from executive cares, ex-Governor Moses' adventures and financial exploits in Northern cities have furnished the local reporters of police courts with not a few disgraceful items. Had it not been for the Southern men of this and the Swepson type — men of high social standing (and they were in every reconstructed state), the Northern adventurers would have been far less successful in their spoliations.

In 1874, the former attorney-general, Daniel H. Chamberlain, was elected governor. He was a native of Massachusetts, a distinguished soldier, and a gentleman of scholarly and executive ability. Like Governor Ames, of Mississippi, he had clean hands in financial matters; but he was no less in the toils of the spoil-hunters. Nothing short of their total dispersion could give honest administration under any executive. But the change from Moses to Chamberlain was a vast improvement in the dreary waste of congressional reconstruction. The new governor recommended a re-assessment of property. He thought the result would be a falling off in taxable valuation amounting to $30,000,000 to $40,000,000. The deficiency of revenue for the fiscal year ended Oct. 31, 1874, amounted to $472,619.54; and that for the preceding year was $540,328. The public indebtedness, Oct. 31, 1874, is stated at $17,017,651.23. But this statement is based on the repudiation of $5,965,000 of "conversion" bonds; and perhaps, also, on the proposed refunding of the debt contracted prior to March 1, 1870, two millions of which had already been exchanged for one million of new bonds.

The foregoing is a summary of the results of misgovernment in North and South Carolina. It is all that can be presented in this place. Since the world began, no parallel can be found to the unblushing knavery which a complete history of carpet-bag government in these states would exhibit. If the entire body of penitentiary convicts could be invested with supreme

power in a state, they could not present a more revolting mockery of all that is honorable and respectable in the conduct of human affairs. The knaves and their sympathizers, North and South, complain that the tax-payers, the men of character and intelligence in South Carolina and other states, finally overthrew, by unfair and by violent means, the reign of scoundrelism, enthroned by ignorance. If ever revolutionary methods were justifiable for the overthrow of tyranny and robbery, assuredly the carpet-bag domination in South Carolina called for it. Only scoundrels and hypocrites will pretend to deplore the result.

Nominally North and South Carolina were restored to their full Federal relations on June 25, 1868, — nearly eight years after they had so violently severed them. They passed under the rod, but were not yet through the defile. The act of Congress of that date imposed as conditions for rehabilitation: first, that the state constitution should never be amended so as to deprive any citizen or class of citizens of the right to vote who were then entitled to vote; second, that the Fourteenth Amendment to the Constitution of the United States should be ratified; and third, that no person who would be ineligible to office under that amendment should be eligible for state office. The President vetoed the bill that made these conditions, but it was passed over the veto on the above date. The vote in the House was, yeas 108, nays 31. North Carolina ratified the amendment on July 4, 1868, and South Carolina five days after. This action included the required guarantees for the colored vote and exclusion from office, and established the right to full restoration in the Union, — but it was not until many years after, as the foregoing sketch shows, and subsequent chapters set forth, that this right was allowed free exercise. The Republican party did not concede it until the year 1877, of Electoral Count memory, and then only in part in local affairs.

CHAPTER XXIX.

RECONSTRUCTION IN THE THIRD MILITARY DISTRICT.

GENERAL POPE IN COMMAND — REGISTRATION AND CONVENTION IN GEORGIA — CONFLICT BETWEEN GOVERNOR JENKINS AND GENERAL POPE — RATIFICATION OF THE CONSTITUTION — GOVERNOR BULLOCK INAUGURATED — COLORED MEMBERS EXPELLED FROM THE LEGISLATURE — MILITARY INVESTIGATION — THE EXPELLED RE-ADMITTED — THE AMENDMENTS RATIFIED — FINANCIAL CONDITION — FLIGHT OF BULLOCK — THE ELECTION LAW OF 1870 — ALABAMA — REMOVAL OF MUNICIPAL OFFICERS — REGISTRATION — MOB IN MOBILE — THE CONVENTION — THE PROPOSED CONSTITUTION OBNOXIOUS — FAILURE OF RATIFICATION BY THE PEOPLE — STATE ADMITTED NOTWITHSTANDING — THE LEGISLATURE — STATE INDEBTEDNESS — FLORIDA — REGISTRATION — CONSTITUTIONAL CONVENTION — DIVISION OF THE REPUBLICANS INTO TWO FACTIONS — UNITY RESTORED, AND A CONSTITUTION VOTED — A MILITARY OFFICER ACTS AS TEMPORARY CHAIRMAN OF THE CONVENTION — CHARACTER OF THE CONSTITUTION — ELECTION OF GOVERNOR REED — CHARGES OF FRAUD IN THE ELECTION — ADMISSION OF THE STATE INTO THE UNION — THE LEGISLATURE — PROPOSED IMPEACHMENT OF GOVERNOR REED — JUDICIAL PROCEEDINGS — THE IMPEACHMENT ABANDONED — NEW IMPEACHMENT PROPOSED — BRIBERY, CORRUPTION, AND FRAUD CHARGED AGAINST THE GOVERNOR — VOTE AGAINST IMPEACHMENT — ACTS OF USURPATION — LEGISLATIVE LEGERDEMAIN — REPUBLICAN CANDIDATE "COUNTED IN" — THE OSBORN RING — A THIRD ATTEMPT AT IMPEACHMENT ALSO FAILS — THE DEMOCRATS REGAIN CONTROL OF THE STATE — FINANCIAL CONDITION.

IT has already been stated that Georgia, Alabama, and Florida formed the Third military district under the Reconstruction acts, and that Maj.-Gen. John Pope was assigned to the command of it. He announced from his headquarters at Montgomery, Alabama, on April 1st, that he had assumed the command of the district; and that the sub-districts of Georgia and Alabama would remain under the commanders then on duty. He further announced that the civil officers in Georgia, Florida, and Alabama, if they administered justice impartially and faithfully, would, unless otherwise directed in special cases, be allowed to retain their offices until the expiration of their terms of service. He expressed the hope that no necessity would arise for the interposition of military authority in the civil administration.

Civil officers would be required to adhere strictly to their official duties, and to refrain from using any influence whatever tending to deter or dissuade others from uniting in the work of reconstruction. He announced, also, that no elections to fill vacant offices would be held pending the period of reconstruction; and that such vacancies would be filled under appointment by the commanding general. On April 8, 1867, the commanding general issued directions to the sub-district commanders of the three states for a registration of the voters. As these directions were necessarily conformable to the acts of Congress and similar to those set forth in preceding chapters, it is needless to recite them here.

The result of the registration in Georgia gave 192,235 names of persons entitled to vote for delegates to the constitutional convention: 96,262 were white, and 95,973 were colored. The vote for a convention was 102,282, and the vote against it was 4,127. As might be inferred, the largest part of the vote was cast by the colored men; probably few of them failed to exercise the privilege on that, their first opportunity. Only 36,500 of the votes were cast by the whites. Of the 166 delegates chosen on the same day, 133 were white, and thirty-three were colored. The convention met on the 9th of December, 1867, at Atlanta, and it remained in session until the 23d, without entering upon the work of framing a constitution. This time was spent in passing ordinances of a legislative character, and among them one for the stay of executions for the sale of property. The convention memorialized Congress for the repeal of the cotton tax, and on the 23d it adjourned until the 8th of January, 1868.

General Pope, who had been applied to by citizens to exercise his authority in stopping the sale of property under execution, gave an answer which does him great honor. It contrasts favorably with the high-handed course of other military commanders. He said: "I know of no conceivable circumstance that would induce me to interfere by military orders with the great business of the state, or with the relation of debtor or creditor under state laws, except perhaps in individual cases, where very manifest injustice had been done. The only military orders which I have issued, or intend to issue, in this district are such as I consider necessary to the execution of the Reconstruction acts."

Charles J. Jenkins, who was elected governor by the white people on President Johnson's plan of reconstruction, set himself in opposition to the Reconstruction acts of Congress. He endeavored to have their constitutionality tested by an appeal to the Supreme Court. This course was in conflict with the general order of the commander, which forbade all state officials to attempt to thwart the measures of Congress. The governor's attention was called to the subject by General Pope, who informed him in respectful and even regretful language, that it would be necessary for him either to conform to the order or to resign. The governor consented to conform. The next

year he was removed by General Meade, the successor of General Pope, for refusing to issue an executive warrant on the treasurer of the state for $40,000, to pay the members of the constitutional convention. General Meade acted in accordance with the requirements of the Reconstruction acts, but he treated Governor Jenkins with marked courtesy.

The constitution framed by the convention guaranteed equal rights and privileges to all citizens, without distinction of race or color, abolished and forever excluded slavery, and declared that Georgia should ever remain a part of the American Union. These were essential conditions of restoration to the Union. The constitution also provided for universal suffrage, including the classes that were excluded from registration and the right to vote for delegates to the convention. There is no full statement of the vote on the ratification of the constitution. The majority was 17,699. In the gubernatorial election, Bullock, the Republican candidate, received 83,146 votes, against 76,099 for the gallant John B. Gordon, the Democratic candidate.

General Meade, Feb. 22, 1868, issued a general order for carrying into effect the resolutions of the convention forbidding imprisonment for debt. No distinction was drawn in the resolutions, nor in the general order, between ordinary cases of inability to pay, and those characterized by fraudulent concealment of goods and chattels.

At the close of the session, a resolution was adopted by a majority of 102 to twenty-six, asking Congress to remove the political disabilities of all the citizens of the state. The governor-elect, Mr. Bullock, was appointed provisional governor in place of General Ruger, by General Meade, pending the decision of Congress upon the question of re-admitting the state to its "practical relation" to the Union. The legislature met on the 4th of July, at which time the governor was inaugurated. The senate consisted of forty-four members, and was equally divided between the two parties. The house of representatives consisted of 102 Democrats and seventy-three Republicans. The senate contained three colored men, and the house twenty-five.

Congress, by act of June 25, 1868, required the legislature of Georgia, as conditions of restoration to the Union, to ratify the Fourteenth Amendment to the United States Constitution, and to abrogate a clause of the state constitution which forbade the courts to entertain suits for debts contracted prior to the first day of June, 1865. This act also prescribed as a primary condition of re-admission, that no change should ever be made in the constitution whereby any citizen or class of citizens already entitled thereunder should be deprived of the right to vote. All these conditions were finally complied with.

The legislature expelled all the colored members from both branches of that body. This scandalous proceeding was attempted to be justified on the ground that Article XI. declared valid all acts passed by any legislative

body, sitting in the state as such, since the nineteenth day of January, 1861, including the laws known as the *Code of Georgia*, and the acts amendatory thereto as passed since that time, which said code and acts were embodied in the printed book known as *Irwin's Code;* except such of those legislative acts as might be inconsistent with the supreme law therein recognized, viz., the Constitution of the United States.

The consequences of this conduct were the refusal of Congress to admit the state to representation, and its re-subjection to military rule. The governor was authorized by Congress to require of the members who had been elected to the legislature, a test oath to the effect that they had not held office before the war, and afterwards participated in the rebellion. The negro members were all re-admitted, and twenty-one white men were excluded by a military commission of investigation. At the first session, the Fifteenth Amendment to the National Constitution was rejected, for the Democratic majority had not only thrown out twenty-eight colored members, but had admitted as many white men of their own party to the vacant seats,—they having received the next highest number of votes; thus they had deprived the negroes of the right to be represented, as well as the right to act as representatives. Under the act of Congress remanding the state to military control, Bullock and his friends turned the tables on their opponents, and admitted to seats twenty-one Republicans in place of the twenty-one Democrats who were pronounced disqualified, for participation in the rebellion. These changes gave decided majorities to the Republicans in both houses, and both the Fourteenth and Fifteenth Amendments were ratified.

Brief as was its rule, the improvised Republican party in Georgia managed to run up the public debt to three or four times the amount that had been contracted prior to its accession to power. The state—as it may be said in view of its resources—was almost free from debt at the beginning of the war. The bonded debt is stated at $1,718,750, in 1861. The interest on the debt was $105,890. This is the statement of the *American Annual Encyclopædia* for 1871. Mr. Poland's committee of investigation states that the debt of Georgia in 1860 was $3,170,000, and that it amounted to $5,706,500 in 1865. The debt incurred in aid of the rebellion was $15,104,726; but this, of course, was repudiated. The same authority states the debt in 1868 at $6,544,500, when Bullock's Republican administration was inaugurated.

The debt and liabilities of the state, in 1872, are given as follows:

Debt, ...	$8,618,750
Contingent and prospective liabilities for railroads, . .	30,000,000

Mr. Angier, the treasurer, who was a northern-born Republican, makes a statement showing that the contingent debt was even greater than is stated above. He charges Bullock with having issued $6,000,000 of state bonds for which there was no need, and for the use of which he seems to have

rendered no return. The ordinary expenses of the state government during the four years ending with 1860 averaged $318,000; while during Bullock's administration of two and a half years, commencing in 1868, the annual rate of ordinary expenditures was $858,000. It must be understood that this statement of expenditures is exclusive of interest on the public debt, and of appropriations for railroads or other public works, and public schools. Mr. Angier states, also, that the rate of state taxation increased six-fold on the amount paid in 1860.

"Governor Bullock," says the minority report of the Poland Committee, "fled, to avoid impeachment for high crimes and misdemeanors. His partner, Kimball, from the State of Maine, who had got to be president of seven of the great railroads of the state, though a bankrupt in 1868, was shorn of his power. Blodgett, who was indicted for criminal offenses, was so notoriously corrupt that he could not be admitted into the Senate of the United States." Kimball claimed that he was worth half a million.

In October, 1870, the Republican legislature passed an act providing that the elections should be held from day to day, for three days, and forbade any person from challenging a vote. The obvious purpose of such legislation was to facilitate fraudulent voting by giving time for passing from one precinct, or one county, to another. The act also placed it in the power of the governor to prevent elections at such precincts as he should neglect to appoint election managers for.

There was no public or private record kept of the ages of the negroes; and even if such record evidence existed, it was subordinated by this act to the apparent full age of the person claiming the right to vote. The eighth section was conceived in the same spirit: "Sec. 8. They shall not permit any person to challenge any vote, or hinder, or delay, or interfere with any other person in the free and speedy casting of his ballot."

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Maj.-Gen. Wager Swayne was placed in charge of the State of Alabama, and this fact was announced in a general order, April 2, 1867.

On the 15th of April, General Pope, the district commander, in a special order, set aside a municipal election which was held at Tuscumbia on the first day of the month, in violation of orders from the general-in-chief of the army. Lemuel S. Cockburn was appointed mayor of the town. On May 14th, General Swayne removed the mayor and city council of Selma and appointed others in their places.

On May 1st, the colored people, in state convention at Mobile, adopted resolutions which were of a less conciliatory nature than those of former meetings, and which complained of combinations among planters to refuse them employment if they should unite with the Republican party. The convention called on Congress to protect the laborers against such combinations.

General Order No. 20, prescribing the mode of registration, was issued May 21st. The result of the registration was 72,748 white voters, and 88,243 colored; total, 166,991. A census taken by the state authorities in 1866 returned 261,004 white males, and 214,253 colored males. According to these figures, a full registration of the white men would have shown about 107,000.

It deserves to be noticed that a mob in Mobile, May 14th, broke up a public meeting, at which Representative W. D. Kelley, of Philadelphia, spoke. Two men, one white and one colored, were fatally wounded by pistol shots. The disturbers of the peace, according to the statement of General Swayne, were a few ruffians, while the body of the people had no part in the affair. But the unruly elements in society were set in motion by this event, and led to the removal of the mayor and other officers of the city, and the appointment of others in their stead.

The state convention to make a new constitution was authorized by a vote of 90,238, against 5,628. The election was held October 1st, 2d and 3d, 1867. There were 100 delegates elected at the same time, of whom ninety-six were Republicans, or "radicals," including seventeen colored persons, and four were Democrats, or "conservatives." A revision of the registration added about five thousand voters, but still the total vote cast for and against the convention was little more than a majority of the whole. The convention assembled November 5th, at Montgomery, in conformity with a general order of General Pope. Eighty-nine members met at the time appointed, and elected E. W. Peck, of Tuscaloosa, an old citizen and lawyer of Northern birth, as president. He is said to have been a Union man, or an opponent of secession, of Whig antecedents. A resolution requiring of members an oath to support the constitution, and fidelity to the trust reposed in them, was adopted. A colored member offered the following resolution, which was adopted:

"*Resolved*, That this convention do memorialize Congress to remove all the political disabilities of those citizens of Alabama, at its next session, who have materially aided in the reconstruction of said state on the plan proposed by Congress." Another resolution, in a better spirit, was adopted, which made the existing constitution of Alabama the basis of the new one, on which such amendments should be engrafted as might be necessary in order to conform to the new order of things, and, at the same time, secure equal political rights to all, without distinction of color. General Pope was invited to take a seat in the convention, and in a brief address he advised moderation in speech and in action.

A resolution calling on General Pope to supersede the government established under President Lincoln's policy was voted down, by yeas forty-five, nays forty-two; most of the colored men voted in the affirmative.

The constitution adopted was justly obnoxious to the white race. It

disfranchised all who were denied by the Reconstruction acts the right to vote for delegates to the convention. As a condition of voting, it required of those who were permitted to register, an oath of recantation of all former theories of secession, and it required them to vote for or against the ratification of the constitution. It also enjoined upon the legislature the establishment of a system of mixed common schools for white and colored children. These odious features were engrafted upon the constitution by the men of Northern birth, who knew that their tenure of power depended upon keeping down the intelligent native whites. The negro members were, for the most part, against the proscriptive and offensive policy. It was provided in the Reconstruction acts that the constitutions to be adopted by the conventions of the Southern States must be ratified by a majority of the registered voters, as a condition precedent to their acceptance by Congress, and to the re-admission of the state into fellowship in the Union; or, as more correctly stated, that a majority of the registered voters must vote on the question of ratification. The language of the fifth section of the supplemental act passed March 21, 1867, is as follows:

"SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors, qualified as herein specified, cast at said election, at least one-half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall transmit the same to Congress." . . . .

The people of Alabama availed themselves of this clause in the Reconstruction acts to defeat the constitution by non-action. They decided not to vote either for or against the constitution, and carried out their resolution to that effect.

The vote, as reported by the military commander, was 69,807 for the constitution, and against it only 1,005; total, 70,812. The registered vote was 165,812; so that the vote for and against ratification fell far short of half. When the question came before the House of Representatives in March, for the admission of Alabama, Mr. Thaddeus Stevens contended that it would be wrong and inconsistent on the part of Congress to admit the state, in violation of the terms of the enabling act. The bill for admission was accordingly recommitted, and it was decided to submit the constitution to the popular vote a second time, for ratification. But two months later, and before another vote was had, he voted for the admission of Alabama, with North Carolina and other states, on the ground that "they have sent these constitutions here, backed in every instance, even in that of Alabama, by a majority of all the voters in the state."

The act for the admission of Alabama was passed over President Johnson's veto, and became a law, June 25, 1868. It provided as conditions of

admission that the constitution of the state should never be so modified as to take away the right to vote from any citizen or class of citizens to whom it gave that right; and that the legislature should ratify the Fourteenth Amendment.

W. H. Smith, who had received a majority of the votes cast for governor, called a session of the legislature to convene July 13. This body was elected at the time the vote was cast on the question of ratification, when the Democrats abstained from voting; the members were, therefore, all Republicans. The Thirteenth and Fourteenth Amendments to the Constitution of the United States were ratified by both houses. Governor Smith recommended the removal of all political disabilities; and made an earnest appeal to the members in behalf of popular education. Among the first acts passed was one in regard to the pay of members and officers of the legislature. The members, composed of Northern adventurers, needy white natives, and some thirty men of color, voted themselves $8 per day, the secretary $10, the assistant secretary $8, door-keeper $6, pages $4, chaplain $4, president of the senate $12, sergeant-at-arms $6; mileage, 80 cents. But the governor vetoed this bill.

This legislature, chosen by a minority of the people, passed a bill intended to relieve the people from the trouble of voting for President and Vice-President of the United States, by assuming that duty themselves. But this benevolent purpose was defeated, also, by the executive veto. After an adjournment for a few weeks the governor issued a call for the reassembling of the legislature, to provide for a new registration of the voters with reference to the Presidential election. An act to this effect was passed; and as a guarantee of free and fair voting, it was made a misdemeanor for any person to challenge a voter. The Democrats took an active part in this election, but General Grant received a majority over Mr. Seymour of 2,480 votes, in a total vote of 148,452. This Republican triumph occurred after the troops had been withdrawn, and after the military had been superseded by the civil rule.

The first legislature elected under the new constitution contained several members who could neither read nor write. The constitution fixed the term of state senators at four years. One half were to go out every two years, and those chosen at the first election were required by the constitution to draw lots for the long and short terms. But it was determined, by a vote of sixteen to ten, that all should hold over, in spite of the constitution. The same legislature, without a shadow of authority, and in violation of the constitution, voted to declare vacant all the municipal offices of Mobile. The governor, Smith, who had done well in other things, was so weak as to sign this outrageous measure. The mayor and other officers were Republicans; but they were not radical enough.

The election in November, 1870, resulted favorably to the Democrats.

They elected the governor and a large majority of the house of representatives. The senators held over, as has been explained.

The highest votes polled at this election by the opposing parties were, 78,682 for the Democratic candidate for lieutenant-governor, and 76,292 for the Republican candidate for governor, making a total of 154,974. Lindsay, the Democratic candidate for governor, defeated Smith, the Republican, by 1,441 votes. The election passed off quietly, but it was not acquiesced in without a struggle. The state superintendent of public instruction, Mr. Cloud, refused to yield the office to his successful rival, Mr. Hodgson, on the ground that the latter had sent a challenge to fight a duel.

The vote having been counted by the assembly, and Lindsay having been recognized as governor, Smith at length yielded.

The minority report of the Poland Committee sums up the actual and contingent indebtedness of Alabama at the beginning of the year 1872, as follows:

The direct bonded indebtedness of Alabama is . .	$5,442,300 00
The indebtedness on account of the school fund is . .	2,795,995 05
Outstanding certificates, auditor's warrants, and temporary loan, ...	623,672 32
The total, ...	$8,861,967 37
To this must be added amount borrowed by Governor Lindsay to pay the interest on Alabama and Chattanooga bonds, ...	$545,000 00
Altogether these items foot up, ...	$9,406,967 37
The contingent liabilities of the state on bonds indorsed for nine railroad companies are stated to be . . .	$15,420,000 00

The minority report states that $7,300,000 of these bonds had, up to that date, virtually become a part of the direct indebtedness of the state. They were issued in favor of the Alabama and Chattanooga Railroad, which company had gone into the hands of a receiver.

The majority report endeavors to divide the responsibility for extravagant appropriations between the two parties in Alabama; and it is undoubtedly true that a wild spirit of railroad building existed among the people. But the peculation seems to have been monopolized by the Republicans. The Democrats, in 1867, were responsible for the scheme of encouraging railroad building by a general offer of $12,000 per mile. But the execution of the act fell to the hands of the Republicans, who the next year increased the offer of state aid to $16,000 per mile; while the Republican governor disre-

garded the limitations and conditions of the grants, in his liberal distribution of the bounty.

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The State of Florida, part of the Third military district, under the command of Maj.-Gen. John Pope, was, as a sub-district, placed under the control, for reconstruction purposes, of Col. John T. Sprague, of the Seventh United States Infantry. His headquarters were at Tallahassee. The registration showed 11,148 white voters, and 15,434 colored voters; total, 26,582. The votes cast on the question of a constitutional convention were 14,503,—all but 203 being for the convention. The convention met on the 20th of January, 1868. Of the forty-six delegates composing it, all but three were Republicans. This included eighteen colored men. Its first president was a New-Yorker. He was named Richards. He subsequently turned out to be ineligible and was expelled from the body. He was succeeded by Horatio Jenkins after the military commander, Colonel Sprague, had intervened to reconcile the two discordant factions into which the Republicans were split, and had even officiated as temporary chairman. These facts make up a serio-comic presentation of politics, as to which the writer cannot take part, without making history ludicrous.

The constitution that was subsequently framed by this body, though too long for a fundamental law, was perhaps the most liberal and rational of any of those made during that prolific period of fundamental fooling. Suffrage was to be universal; and the judges and all state officers were to be appointed by the governor and confirmed by the state senate. The vote on the ratification of the constitution took place on the first Monday, Tuesday, and Wednesday in May. It resulted: for ratification, 14,520; against ratification, 9,491. Harrison Reed, who was a man of Northern birth and had settled in Florida at the close of the war, was elected governor by a vote of 14,170; Scott, conservative, receiving 7,852, and Walker, 2,262.

The result of the legislative election was, that the senate was composed of nine Republicans and two Democrats, and the house of thirty-three Republicans and seven Democrats. The legislature met on the first of June. It ratified the Fourteenth Amendment as required by the Reconstruction acts. The re-admission of the state to representation in Congress was accomplished by the act of Congress of June 25, 1868, upon the same essential conditions respecting the adoption of the Fourteenth Amendment and perpetuity of the right to the ballot which were imposed in the case of Alabama. Four days afterwards, General Meade succeeded General Orr. The former gave orders to turn over all the state offices to the newly constituted state government.

The states of North and South Carolina, Georgia, Alabama, and Florida had now undergone the process of reconstruction. It was announced from the War Department that the Second and Third military districts, which

comprised those states, had ceased to exist. The ceremony of the surrender of the military and provisional governments in the State of Florida, and of the installation of the newly-elected state officers, took place in Tallahassee on the 4th of July, 1868, in the presence of the legislature.

The session of the legislature lasted two months. An adjournment took place till the 3d of November. On that day, the governor, for some inexplicable reason, issued a proclamation calling an extraordinary session of the legislature for eight o'clock the same evening.

Horatio Jenkins, who had headed the revolt against Richards, the first president of the convention, proposed to impeach Governor Reed because the latter had declared the seats of Jenkins and of three other members of the legislature vacant on the ground that they held state offices — the constitution expressly forbidding the combination of such functions in the same person. Jenkins, although a member of the senate, the tribunal before which the impeachment should be tried, appeared before the house of representatives, and presented articles of impeachment against the governor. They charged him with falsehood and lying, with signing commissions in blank and allowing irresponsible persons to issue them, with declaring seats in the legislature vacant, contrary to the right of the matter, with embezzlement of state securities and money, and finally with corruption and bribery in the distribution of offices. The house promptly voted the articles of impeachment; yeas 25, nays 7. The senate was informed thereof with the usual formalities. A committee was appointed to wait on the lieutenant-governor, inform him of the proceedings against the governor, and invite him to assume the duties of the executive as provided for in the constitution. On the same day, November 6th, the lieutenant-governor, W. H. Gleason, issued a proclamation announcing the impeachment of the governor by the house of representatives and the lieutenant-governor's assumption of the executive duties. The next day, November 7th, the house adopted a joint resolution for an adjournment to the first Monday in January, 1869. But the senate refused to concur. The acting governor sent a message to the two houses, proroguing them to the day named in the resolution.

In disregard of the impeachment proceedings, Governor Reed continued to exercise the executive duties. He based his action on the ground that the senate had no quorum, and that consequently no legislature had assembled in obedience to the call. Mr. Alden, the secretary of state, recognized Mr. Gleason as acting governor, and co-operated with him in the administration of affairs. Governor Reed treated Alden's course as equivalent to resignation. He appointed Jonathan C. Gibbs, a colored man, in his stead. At the same time, the governor laid all the circumstances before the supreme court of the state, and requested answers to these questions: 1st, whether the legislature, consisting of a senate and assembly, had convened in extraordinary session on November 3d; and 2d, whether the proceedings in his im-

peachment were legal and binding on him, compelling him to surrender the executive office. The court concurred substantially in the opinion of Associate Justice James D. Westcott, which was in these words: "It is therefore my opinion that, on the facts submitted in your communication, and upon the authorities and precedents cited, twelve senators did not constitute a quorum to do business; and hence that there was no senate within the meaning of this clause of the constitution; and that a legislature of the State of Florida, consisting of a senate and assembly vested with the legislative authority of the state, did not convene in extraordinary session under your proclamation of Nov. 3, 1868." There seems to have been no doubt expressed by the supreme court about its authority to render an opinion in the case. But, in the suit of ouster against Mr. Gleason, on a writ of *quo warranto* on the ground that he was ineligible, being a non-resident of Florida, he denied the jurisdiction of the court. This plea availed him nothing, however, and a judgment of ouster was rendered against him, restraining him from exercising the functions of the office of lieutenant-governor. From that decision Mr. Gleason appealed to the Supreme Court of the United States. A "citation writ" was granted him by Justice Miller, returnable on the first Monday in December, 1869. The legal effect of this writ was to continue Gleason in office, pending the case before that court; but, practically, it availed nothing, as the impeachment was abandoned by the assembly. It was even ignored by both branches of the legislature, at the next session, Jan. 5, 1869.

The vacant seats in the senate having been filled by a special election, that body met in January with a quorum of members. The character of both branches of the legislature had undergone a change in the brief interval between Nov. 7, 1868, and Jan. 5, 1869. Governor Reed was recognized without a murmur. It was as if nothing had happened. The house of representatives, which so lately had acted as the grand inquest to impeach, and the senate, which had prepared itself as a tribunal to try the governor, were quiescent. The senate adopted the following resolutions, which completely ignored the existence of the called session of November:

"*Resolved*, That the senate recognize no other journal of its proceedings for this session than the journal commencing Tuesday, Jan. 5, 1869; and that all other so-called journals be expunged from its records."

In the house of representatives, which, without inquiry into their truth, had been so swift to impeach the governor on the charges made by Jenkins, the following resolution was adopted as its first official act in January:

"*Resolved*, That a committee of three be appointed by the speaker to wait upon His Excellency, Harrison Reed, and notify him that the assembly is in session and ready to receive any communication which he may wish to make." On the second day of this session, January 6th, the assembly adopted a resolution for the appointment of a committee of five to inquire

into and investigate the conduct, acts and doings of the governor, and to report the results of its investigation. Thus, having condemned the governor and arraigned him at the bar of the senate as a criminal, the assembly, within two months thereafter, appointed a committee to investigate the charges and report the facts.

The legislature adopted a concurrent resolution on the 7th of January, politely informing "his excellency" that the two houses were ready to proceed to business, and inviting him to make any communication he might think proper on the state of public affairs. Accordingly the governor addressed them in conciliatory terms upon the improved tone of public feeling. He said words to encourage all prospects of material development. The committee which had been appointed to investigate the conduct of the governor made its report on the 26th of January. The assembly, having listened to the reading of the testimony, declared, by a vote of forty-three yeas to five nays, that there was nothing to justify an impeachment. This was a ridiculous conclusion of the portentous proceedings begun on November 6th.

The governor, however, had managed to escape only one impeachment. He fell into another. It was a more serious one. A committee appointed at the legislative session which convened on Jan. 4, 1870, reported certain testimony. It showed that he had received and appropriated to his own use $5,000, on a deposit of $100,000 of state bonds with Messrs. Soulter & Co., of New-York, and that this sum was part of a bribe of $12,500 given him by George W. Swepson, of North Carolina, in consideration of his calling a special session of the legislature and agreeing to exert his influence in favor of certain railroad legislation. Comprised in the testimony was a letter from Swepson to Reed, dated Raleigh, May 31, 1869. It contained an explicit, but damaging statement: "You remember when in New-York, our agreement was this: You were to call the legislature together and use your influence to have our bills passed as drawn by us; and if you were successful in this you were to be paid $12,500 in cash, out of which amount was to be deducted the $7,500 you have heretofore received, leaving a balance of $5,000 to be paid at an early day. Should our bills as drawn pass, we want you to go to New-York and sign and issue to us the state bonds, and receive the bonds of our road in exchange for them."

The committee also reported that Reed had wrongfully appropriated the sum of $1,140 belonging to the Internal Improvement fund; also, that a sum of $6,948 belonging to the state, which Reed had received in "United States currency," he had paid over to the treasurer in "state scrip," then at a depreciation of ten per cent. below par; also, that a sum of $22,500 received by him as the proceeds of $30,000 of state bonds, sold for state purposes, had been turned over by him to the treasurer in depreciated scrip, and that in the purchase of rifles, for which this money was to be used, he had made an overcharge of from $3.00 to $3.50 each.

In view of all these facts, the committee reported a resolution of impeachment of Governor Reed, for "high crimes and misdemeanors, malfeasance, and incompetency in office." Mr. William H. White, as a minority of one, presented his own views. These were to the effect that, while the conduct of the governor had been in some instances informal, irregular, and indiscreet, particularly in connection with financial matters, these irregularities were palliated, or perhaps excused, by a lack of co-operation and accord between the governor and a portion of his cabinet; and he offered a resolution declaring that in view of the explanations offered, and of attending circumstances, there was no sufficient evidence to warrant the impeachment. The "explanations" referred to by Mr. White are not to be found in the report of the committee's proceedings. The "attending circumstances" of the assembly must have been similar to those which befogged the intellect and conscience of Governor Reed, for the minority report, in the face of the clearest evidence, which was not rebutted in any particular, was adopted by yeas 27, nays 22.

The effort to impeach Governor Reed thus failed. Its promoters were members of the Republican party. They are reported to have expressed the sentiment, in a caucus held the next day, "to harmonize Republicans and to concentrate Republican effort," that "they had been fairly and thoroughly whipped"; that they "accepted the result both as a finality and as directory of the wishes of the party"; that they had "misunderstood the wishes of the party"; and they pledged themselves to sustain Mr. Reed's administration. If this report can be relied upon, these penitent impeachers were as base as the man whom they charged with having embezzled the public money.

Between acts of embezzlement and acts of usurpation, the governor seemed resolved to make his administration memorable. His next movement in the latter line was the "appointment" of a lieutenant-governor. He sent a message to the senate on the twenty-fourth day of January. It notified that body that he had "appointed" Edmund C. Weeks lieutenant-governor in place of William H. Gleason, declared ineligible by a decision of the supreme court, on the ground of non-citizenship. The senate, however, repudiated the appointment. It ordered the sergeant-at-arms to arrest the usurper if he should undertake to assume the chair. Weeks, however, deemed "discretion the better part of valor." He did nothing to provoke arrest. Another extraordinary circumstance in which the governor was concerned, was in connection with a bill in relation to agricultural land scrip. A bill of similar title was signed by the proper officers of both houses, and by the governor, while the bill which had really been passed on that subject had not got any farther in its legislative progress than the Committee on Enrolled Bills. It had not even been enrolled. When the governor presented himself at Washington to realize the scrip for which the bill provided, he learned that this little act of legislative legerdemain had been

made known to the Secretary of the Interior, and that the device would not work.

In these matters Governor Reed was no worse, and no better, than the legislators and politicians with whom he co-operated. In an election held on the 8th of November, 1870, for members of the legislature, lieutenant-governor, and members of Congress, the Republican candidates were "counted in" by the returning board. It was done by the rejection of votes in nine Democratic counties, on the pretense of "glaring informalities, and non-compliance with the law." The matter was brought before the supreme court of the state. That tribunal issued a writ commanding the returning board to count the rejected votes. But the writ was not obeyed. The rejected votes were not counted. The result of the election, therefore, was, that in the senate there were eleven Republicans and ten Democrats; and in the assembly, twenty-three Republicans and twenty Democrats; that Josiah T. Wales, a colored man, was the Representative in Congress, and S. T. Day the lieutenant-governor. The rejection of the votes in the nine counties was attributed by leading Democrats to the influence of the "Osborn Ring." This ring derived its name from Thomas W. Osborn, United States Senator from Florida. The opinion which Reed and Osborn entertained of each other may be gathered from a speech made by the former at Tallahassee, in 1870, pending his impeachment. In it he says:

"And how had I offended Senator Osborn? I had refused to make appointments at his dictation . . . and I had blocked one of his schemes for plunder. He proposed to me that we should obtain from the United States Government the grant of a large tract of land at Pensacola for the state, and that I should then influence the surveyor-general that this land might be sold at a mere nominal price to Senator Osborn. I refused to countenance this scheme; and so I must be removed, that a more pliant tool might take my place, and the ring might plunder to its heart's content."

A third attempt to remove Governor Reed by impeachment was made in February, 1872. The assembly presented articles of impeachment, and the senate resolved itself into a court to try them. Fourteen charges were brought against him, including those which had been the subject of the previous investigation. The new charges were of the same general character — bribery, appropriation of state money to his own use, and fraudulent conspiracy with railroad managers and others to cheat and rob the state in connection with the issue of state bonds. Governor Reed announced his readiness to meet the charges; but the impeachment managers applied for a continuation of the trial, to give them time to collect evidence and bring witnesses from distant states. This application being denied, and the managers being unprepared to proceed with the trial, the court and legislature adjourned.

Immediately on the adjournment of the legislature, Governor Reed claimed the right to resume his executive functions, which (as the constitu-

tion required) he had had to yield to Lieutenant-Governor Day, on being impeached. But Day showed no disposition to surrender them. Reed, taking advantage of Day's temporary absence from the capital, stepped into the executive office at Tallahassee, got possession of the great seal of the state, and issued a proclamation announcing his resumption of the executive office. He did this on the ground that the abandonment of the impeachment proceedings was equivalent to his discharge from constructive arrest. This was on the 8th of April, 1872. On the fifteenth, Lieutenant-Governor Day issued a counter-proclamation. It asserted his right to the office of governor. It denounced Reed as a usurper, and his proceedings as rebellious. Reed submitted the question to the supreme court of the state. The majority of the judges decided adversely to his claim. They held that his impeachment was still pending before the senate; and that, until final action by that tribunal, he was, within the meaning of the constitution, suspended.

Day was equally unfortunate in his movement. When Reed appealed to the court, Day, as acting governor, summoned the legislature in extraordinary session. The impeachment proceedings were thus resumed before the managers were ready. The consequence was an immediate acquittal of Reed, and his restoration to office, so that each in turn was "hoist by his own petard." Each was indebted to the other for the degree of success achieved. The lieutenant-governor might have held the office of governor for months longer — possibly through the term — if he had not precipitated the impeachment trial by calling the legislature together in extraordinary session. This was the presidential year. General Grant was the Republican candidate. The Republicans carried the state by larger majorities than they had two years before. The Grant electors received 17,763 votes; the Greeley electors only 15,427. The Republican candidate for governor, Mr. Hart, received 17,603 votes, and the Democratic candidate, Mr. Bloxham, 16,004. The Republican candidates for Congress were elected by about the same majorities. The state senate consisted of thirteen Republicans and eleven Democrats, and the assembly of twenty-eight Republicans and twenty-four Democrats — the Republicans thus having a majority of six on joint ballot.

The new legislature met on the 17th of January, 1873. It proceeded to the election of a United States Senator in place of Mr. Osborn. The choice fell on Simon B. Conover. He was speaker of the assembly, and late state treasurer. He was a native of New Jersey, of a most approved family from Monmouth County.

The measure of this session bearing on the question of reconstruction was an act "to protect the citizens of Florida in their civil rights." It provided that no person should be excluded, by reason of race, color, or previous condition of servitude, from hotels, theatres, or other places of amusement, from traveling in public conveyances, from cemeteries, or from

public schools. All such attempts to enforce social intercourse between classes that have no affinities have been a failure, although backed by laws of Congress and of "reconstructed" states. They are now practically abandoned because of the righteous adverse decisions of the Supreme Court of the United States.

The Republicans elected the two congressmen in 1874. The legislative election was in favor of the Democrats. They had a majority of four on joint ballot. The Democratic party was thus enabled to take control of public affairs. They elected a Democrat, Charles W. Jones, to the United States Senate, in place of Gilbert, Republican. Senator Jones is of Irish descent, of stalwart form, gentle manners, accomplished talent, rare genius for law and comprehension of fact and philosophy. He was one of the first to aid in lifting the South out of its quagmire.

Governor Hart died in March, 1874, and was succeeded by the lieutenant-governor, M. L. Stearns.

The financial condition of Florida, in 1872, is thus stated in a congressional report of that period:

Debts and old railroad liabilities,	$2,556,072
Increase since 1868,	1,032,215
Contingent liabilities for railroads (secured),	4,000,000
Prospective contingent liabilities (to be secured),	10,000,000
	$17,588,287

The four-million-dollar item represents state bonds bearing interest at eight per centum. They were issued to the Jacksonville, Pensacola and Mobile Railroad Company in exchange for first mortgage bonds of the company to the same amount. Their issue furnished one of those splendid opportunities for robbing the state and for enriching their manipulators that were so much in vogue about the same period in nearly all the "reconstructed" states. It was in connection with them that some of the charges of fraud were made against Governor Reed in the impeachment proceedings. In his message of Jan. 4, 1872, Governor Reed referred to these same bonds as having been entrusted by the company "to one of the firms of swindlers who abound in New-York, who by fraud and villainy have diverted much of the proceeds." He had, however, placed the whole four thousand bonds, which nominally represented $1,000 each, or $4,000,000 in the aggregate, in the hands of his *particeps*, M. S. Littlefield. This notorious sharper had sold them to a London broker at the rate of £100, or $500 each; — so that, as they bore eight per cent. interest, the people of Florida were thus bound to pay for the money which was received on these bonds, and which was largely diverted from its legitimate purpose, interest at the rate of sixteen per centum. The experience of Florida in this respect was not different from that of Arkansas, Louisiana, and other "reconstructed" states.

CHAPTER XXX.

RECONSTRUCTION IN THE FOURTH MILITARY DISTRICT.

MISSISSIPPI — REGISTRATION — THE DEMOCRATS ALLOW THE ELECTION FOR CONVENTION TO GO BY DEFAULT — APPREHENSIONS OF A NEGRO OUTBREAK — COURT-MARTIALING OF A NEWSPAPER EDITOR — THE CONSTITUTIONAL CONVENTION — LIBERAL COMPENSATION TO DELEGATES AND OFFICERS — GENERAL AMES APPOINTED PROVISIONAL GOVERNOR, AND GOVERNOR HUMPHREYS OUSTED AT THE POINT OF THE BAYONET — THE CONSTITUTION DEFEATED — EX-SENATOR BROWN'S EXPLANATION OF THE VOTE — MODERATION IN POLITICS — OBNOXIOUS FEATURES OF THE CONSTITUTION ELIMINATED — THE CONSTITUTION RATIFIED — CORRESPONDENCE BETWEEN PRESIDENT GRANT AND JUDGE DENT — THE FALL ELECTION OF 1869 — JAMES L. ALCORN CHOSEN GOVERNOR — HE DECLINES THE "PROVISIONAL" APPOINTMENT — ELECTIONS TO THE UNITED STATES SENATE — A COLORED SENATOR — ADMISSION OF MISSISSIPPI TO THE UNION — MEETING OF THE LEGISLATURE — GOVERNOR ALCORN'S INAUGURAL — A MURDER CASE — THE NEW CONSTITUTION — THE ELECTORS OF 1871 — CENSUS AND TAXATION — DEMOCRATIC VICTORY IN 1875 — ARKANSAS — HIGH-HANDED MILITARY INTERFERENCE WITH STATE OFFICIALS — THE CONSTITUTIONAL CONVENTION — ELECTION FRAUDS — CHARGES OF FRAUD ON ONE SIDE, AND OF INTIMIDATION ON THE OTHER — MILITARY RULE TERMINATED, AND THE STATE RESTORED TO THE UNION — FUNDING THE PUBLIC DEBT — THE HOLFORD BONDS — HOSTILITY BETWEEN GOVERNOR CLAYTON AND LIEUT.-GOV. JOHNSON — THE FALL ELECTION OF 1872 — MORE WHOLESALE FRAUDS — THE BAXTER-BROOKS CONFLICT — ADOPTION OF THE CONSTITUTION OF 1874 — THE PARTIES AND THEIR LEADERS EXCHANGING POSITIONS — PRESIDENT GRANT CHANGES WITH THEM — REPORT OF THE POLAND INVESTIGATING COMMITTEE — STATE FINANCES.

GENERAL E. O. C. Ord was appointed commander of the Fourth military district. It consisted of the states of Mississippi and Arkansas. His headquarters were at Vicksburg. He entered on his duties on the twenty-sixth of March, 1867. In a general order, dated April 15, he stated that elections to fill vacancies in state offices would not take place until a registration of voters had been made, and that in the meantime he would fill such vacancies by appointment. He advised the freedmen that their most important duty was to labor for the support of themselves and their families, and not to neglect that duty for politics.

The result of the registration in Mississippi showed that there were 46,636 white registered voters, and 60,167 colored ones. An election was then held, for and against a state convention, and for delegates thereto. The whites complained that the selection of delegates was unfairly made, so as to give a large preponderance to the negroes. They were for a time divided in opinion as to the utility of making any opposition to the Republicans. They therefore allowed the election to go practically by default. There were only 6,277 votes, out of a total of 76,076, cast against a convention.

In December, 1867, the provisional governor, Benjamin G. Humphreys, found it necessary to call upon General Ord for assistance in preventing a violent outbreak of the blacks. The blacks had been led by demagogues to expect that lands would be confiscated and distributed among them. He also issued a proclamation against threatened combinations and conspiracies among the blacks to seize lands and establish farms. General Ord gave orders for the arrest of all persons engaged in such unlawful enterprises, and of all white men who should advise negroes to unlawful acts. These vigorous measures had the desired effect. The reckless schemes were abandoned.

A disturber of the peace among the whites was W. H. McCardle. He was the editor of a Vicksburg newspaper. He was arrested and court-martialed on charges of publishing articles intended to incite the people to a breach of the peace, and to impede reconstruction. Judge Hill, of the United States District Court, issued a writ of *habeas corpus* in behalf of McCardle. To this General Ord made return, setting forth the facts; and that the prisoner was held by the authority of the acts of Congress known as the Reconstruction acts. Judge Hill ruled that those acts were valid and constitutional. An appeal was taken to the Supreme Court of the United States. That court dismissed the appeal for want of jurisdiction.

The constitutional convention met in Jackson on the 7th of July, 1868. It continued in session until the 18th of May. It contained a large Republican majority. B. B. Eggleston was elected president. He was an Ohio man. The delegates showed a liberal appreciation of their services by voting themselves a compensation of $10 a day; $20 a day to the president; $15 each to the secretary and reporter; $10 to the sergeant-at-arms, and $2.50 to the pages. There was considerable opposition to this scale of compensation, but the dissatisfied were regarded as almost guilty of treason, and as deserving of expulsion. A committee was appointed to prepare a memorial to Congress, asking for power to remove the state officials appointed or elected under the provisional government and to appoint others in their stead. A protest against this memorial, repelling the charge that the provisional government was in the hands of the rebels, and that the lives and property of loyal men were insecure, was signed by fifteen members, but it was not allowed to be entered on the journal. The convention, by a vote of fifty to nineteen, ordered the protest to be "wrapped in brown paper and returned to its author."

General Ord was, on June 4, 1868, succeeded in the command of the Fourth military district by Gen. Irwin McDowell. This officer, on the fifteenth of the same month, issued a general order removing Governor Humphreys, and appointing Maj.-Gen. Adelbert Ames provisional governor in his place. At the same time, Capt. Jasper Myers was appointed attorney-general of the state, instead of Charles E. Hooker, removed. General Ames notified Governor Humphreys of the change ordered, and requested to be informed when it would be convenient to make the necessary arrangements. Governor Humphreys replied that he regarded the general order as a "usurpation of the civil government of Mississippi, unwarranted by, and in violation of the Constitution of the United States." He stated that he had telegraphed to the President, and was authorized to say that the President disapproved the order. He, therefore, refused to vacate the office. In this case, however, the power of the President, though "Commander-in-chief of the Army and Navy," was subordinate to that of his inferior officer. The commander of the Fourth military district was backed by Congress. Governor Humphreys was ousted from his office at the point of the bayonet. General Ames, of Maine, took possession of the governor's house, and of all the public buildings and archives.

The white population of Mississippi was, almost universally, opposed to the reconstruction measures. Although in a voting minority, the whites were able to defeat the ratification of the constitution which was the work of the convention. The obnoxious clauses of that instrument were those relating to suffrage and eligibility to office. In general terms suffrage was declared to be universal; but persons offering to register were required to swear that they were not disfranchised by any of the Reconstruction acts. No one who was not a qualified elector was eligible to any public office. The same disqualifications were extended to such members of the legislature as had voted for the call of the convention that passed the ordinance of secession; to all who had voted for, or signed, such ordinance; and to all who had aided or countenanced the rebellion — unless they had afterwards aided reconstruction by voting for the constitutional convention, and had, in good faith, advocated its acts. Private soldiers of the Confederate army were, however, exempted from this exclusion from office.

This clumsy and contradictory proscription went even beyond the restrictions of the Reconstruction acts. A quiet citizen who had managed to keep out of the fight, but had given aid, comfort, countenance, or counsel to the rebellion, was placed in a worse situation than the man who had fought in the ranks. And even the worst cases of treason and rebellion were condoned by voting for the convention and continuously supporting the reconstruction measures. It is not at all surprising that the white people in Mississippi united in an effort to defeat such a constitution. The intelligent and respectable colored men sympathized with them.

The total vote on ratification was 120,091, of which 56,231 were for the constitution, and 63,860 against it. This showed an opposition majority of 7,629. Benjamin G. Humphreys, the Democratic candidate for governor, was elected. He received 63,321 votes, against 55,250 for the Republican candidate, B. B. Eggleston. Four of the five congressmen elected at the same time were Democrats. The Democrats had a small majority in the legislature.

Ex-United States Senator Albert G. Brown appeared before the congressional reconstruction committee as a representative of the Democratic party. He is the statesman referred to in our early chapters. He testified that profound quiet prevailed in all parts of Mississippi; that there was not a state in the Union where the law was administered more impartially, or where the civil courts had a higher regard for the rights of men of all parties and of all colors. He stated that the people were willing to submit to the Reconstruction acts of Congress, if those acts were fairly carried out. The proposed constitution had been defeated, he said, not by fraud and intimidation, as had been alleged, but distinctly because it was more vindictive in its spirit than the people, white or black, would tolerate. It was more proscriptive than the acts of Congress required. He said that the Republican candidates were defeated because they stood as the representatives of the tone of the constitution, and not because they were trying to reflect the will of Congress. He declared that if Congress would take up the rejected constitution of 1868, and so amend it as to make it conform to the requirements of the fourteenth article of the Reconstruction acts, the people would accept it with unparalleled unanimity. They would not, however, he said, willingly accept as officers the men who had been rejected with the constitution, because those men stood as the exponents of that constitution and were pledged to carry out all its vindictive and proscriptive features.

A joint resolution was passed by Congress early in March, 1869. It declared that the offices held in Virginia, Texas, and Mississippi by persons who could not take the test oath prescribed by the act of July 2, 1862, should be vacated. It declared also that the commanders of the military districts embracing those states should fill such offices by the appointment of persons who could take the test oath. An exception was made in favor of those whose disabilities had been removed. This joint resolution was carried into effect in Mississippi by a general order of General Ames. It was dated March 23d. Another general order was issued requiring that men of color should be received by the courts as competent jurors.

Considering the ardent temperament of the Mississippi character and the profoundly important questions at issue, the politics of the state took a singular turn. Moderation became the order of the day. Eggleston and his associates, who had framed the constitution of May, 1868, and who had made it so proscriptive that it was disapproved by General Grant and a majority of

Congress, were thrown overboard by the Republican party; while the Democratic party, which had urged affairs to the opposite extreme, had the good sense to stand aside in favor of the "National Union Republican Party." President Grant, under the authority of Congress, issued a proclamation ordering a new election on the question of ratification of the constitution, in which the sections containing the obnoxious features that had been pointed out were submitted for a separate vote. The result was that all these were rejected by large majorities. The constitution itself, thus amended by executive pruning, was ratified. It was ratified by an almost unanimous vote. There were only 954 votes against ratification, to 105,223 in its favor.

The radical Republicans, probably under inspiration from Washington, put in nomination a relatively conservative ticket for state officers. James L. Alcorn, a studious economist and cotton raiser of fair and conservative views, was at its head for governor. Their platform also was denuded of all its most offensive features. It differed very little in tone from that of the National Union Republicans. It pledged fidelity to the Union and to the Republican party. It favored a just and economical administration of the state and national governments, freedom of speech and of elections, free schools, and reformation of the system of taxation. It declared that all men, without regard to race, stood as equals before the law. The platform declared in favor of a removal of political disabilities as soon as the dawning spirit of toleration should warrant Congress in declaring them at an end. It recommended the ratification of the Fifteenth Amendment.

The National Union Republican party adopted a platform quite as liberal as that of the radical Republicans. It expressed the thanks of the party to the President and Congress for rejecting the scheme of Eggleston and others to secure the acceptance of the constitution after it had been rejected by the people. It declared in favor of universal suffrage and of free schools for all. This party nominated as its candidate for governor, Judge Lewis Dent. He was a brother-in-law of President Grant. He doubtless expected to receive the support of General Grant and his administration. In this, however, he was mistaken. General Grant declared in an emphatic letter his purpose to sustain the candidates of the other party. This letter, which was addressed to his brother-in-law, was as follows:

"LONG BRANCH, August 1st, 1869.

"DEAR JUDGE: I am so thoroughly satisfied in my own mind that the success of the so-called conservative party in Mississippi would result in the defeat of what I believe to be for the best interest of the state and country, that I have determined to say so to you (in writing of course). I know, or believe that your intentions are good in accepting the nomination from the conservative party. I would regret to see you run for an office and be defeated by my act; but, as matters now look, I must throw the weight of

my influence in favor of the party opposed to you. I earnestly hope that before the election there will be such concessions on either side in Mississippi as to unite all true supporters in the state of reconstruction and of the administration together in support of one ticket."

This letter of President Grant was volunteered on his part in order to prevent a misapprehension of his wishes. It gave tone to public feeling.

The reply of Judge Dent to the letter of the President was manly and vigorous. It deserves a place in this history. He said:

"Is it reasonable to suppose that a people having the free choice of their representatives would elect for their rulers a class of politicians whose aggressive and hostile conduct hitherto has rendered them peculiarly obnoxious and disagreeable?

"And to this class of men, whom you foiled in their attempt to force upon the people of Mississippi the odious constitution rejected at the ballot-box, you now give the hand of fellowship and support; and spurn from you that other class who, accepting the invitation of the Republican party in good faith, came *en masse* in Virginia and Tennessee, as they will come in Mississippi and Texas, to stand upon its platform and advocate its principles."

The result of the election showed that General Grant's letter had the desired effect. There were 114,283 votes cast for the office of governor, of which Mr. Alcorn received 76,186 and Judge Dent 38,097. The entire delegation to Congress chosen on the same day was composed of Republicans. That party also elected three-fourths of the legislature. A military order which announced the result of the election directed the legislature to meet at Jackson on the 11th of January, 1870. Another general order appointed Mr. Alcorn provisional governor; and the other gentlemen elected on the ticket with him were provisionally appointed to the places for which they were chosen by the people. These provisional appointments were to continue until Congress should decide on the validity of the constitution and the elections under it. Mr. Alcorn, for reasons which do honor to his head and heart, declined this appointment. "Coming from military authority and subject for its support to the military power," he said, "the fitness of things appears to me to forbid my acceptance of it, while I hold in immediate prospect the position of civil governor by that sanction most acceptable to my instincts as an American citizen, that of popular choice."

The legislature which met on January 11th, proceeded to elect three United States Senators, two to fill unexpired terms and one for the regular term commencing March 4, 1871. Mr. Alcorn, the governor elected, was chosen Senator for the long term. General Ames was elected for the longer of the two unexpired terms. A colored man named Revels was assigned to the remaining short term which would expire March 4, 1871. Mr. Alcorn received a unanimous vote in the state senate and a vote of ninety-one to two

in the other house. The votes for the other two Senators were also large. The Fourteenth and Fifteenth amendments to the United States Constitution were adopted by large majorities.

The act for the admission of Mississippi to representation in Congress, prescribing the same conditions as those laid down in the case of Virginia, was adopted, after discussion, on the 17th of February, 1870, and approved on the twenty-third of the same month. There was a proposition to impose other and harder conditions, but it is probable that the presence of a man of African descent with a certificate of election as a United States Senator turned the scale in favor of the bill. The state legislature, which had adjourned, re-assembled on the 8th of March. On the tenth of the same month, Governor Alcorn was inaugurated. In his inaugural he said:

"The Union has brought us back, pardoned children, into its bosom. It bids us go forward this day to the reconstruction of a government on the ruins left by our own madness. Restored to our lost place in the sisterhood of states by the grace of the Nation, that grace has brought us back an equal among sovereigns. The Northern Democracy have overthrown the Southern oligarchy. This is the measure of the fact accomplished by the action of the United States. Entering on our duty in acceptance of that result, we must go forward to make the overthrow of the old system that had reigned amongst us a practical reality, by insuring all the blessings of free government for the masses of the people."

Governor Alcorn's idea of state sovereignty might be accepted practically by the older champions of consolidation. Holding that the states were sovereign before the rebellion and sovereign after their overthrow and reconstruction under acts of Congress which subjected the people to military rule, he yet rejoices at their overthrow, and bids the people go forward in building new institutions of freedom and progress on the ruins of slavery!

A local event of startling import occurs at Jackson. Jackson is the seat of government. This is the murder, or at least the killing of Lieut.-Col. Joseph Crane. He is the provisional mayor of the town. He is killed by Edward M. Yerger, an ex-Confederate colonel. In Yerger's absence from home, a seizure of a piano has been made at his house, under a warrant of distress issued by the mayor to satisfy a tax levy, which Yerger disputes. On his return, he has a street altercation with Crane. In this he stabs Crane to death with a bowie-knife. A military commission is ordered to try Yerger, but his counsel protests against such a form of trial. The question is brought by *habeas corpus* before the United States Circuit Court for that district, but this court decides in favor of the military authorities. The matter is carried by *certiorari* to the Supreme Court of the United States, but before a decision is reached the state is "reconstructed." All claim of military authority to try the case ends. When Yerger comes to be tried before a jury he is acquitted. There is no precedent for hanging a man in that state for killing his adversary on the street.

Under the new constitution, the judges were to be appointed by the governor, by and with the advice and consent of the senate. Formerly their offices had been elective. The change, though a wise one, indicated distrust of the new voters. The new constitution also provided for the establishment of a system of common schools. Although nothing was said in it about separate schools for the two races, that plan was probably adopted from the beginning. Mixed schools in the South are utterly impracticable. Their advocates must be fanatical devotees of social equality, rather than friends of education. Among the provisions made for the public schools was a poll-tax of two dollars.

At the election of November, 1871, the Democrats made considerable gains, but not enough to overcome the immense Republican majorities. The senate was made up of twenty-two Republicans and fourteen Democrats; the house of sixty-two Republicans, forty-six Democrats, and three Independents.

The census of 1870 showed a population in Mississippi of 827,992 of all races and ages, and an assessed valuation of property amounting to $177,000,000. The state and county taxes aggregated the enormous sum of $3,736,432. This was at the rate of $4.52 for each person, or something over $20 per head of the adult male population. Otherwise expressed, the rate was $47.37 for every thousand dollars' worth of property assessed. This enormous taxation was five times greater than the amount of the state and county taxes in 1860, when they only aggregated $783,729.

There was no state election in Mississippi during the year 1872. In the Presidential election, Grant's majority over Greeley was 34,887. The Democrats gained a member of Congress in the first district. The other four members chosen were Republicans. In December, 1871, Mr. Alcorn resigned the office of governor. He took his seat in the Senate.

The minority report of the joint select committee appointed in 1871, to investigate Southern affairs, attributes the outrages in Mississippi to the corrupt and oppressive county governments. These imposed taxes from five to six-fold greater than those which were borne by the people before the war. The same report gives credit to Governor Alcorn for his efforts to check extravagance and to prevent the accumulation of a public debt. It quotes from his message of January, 1871, in which he speaks of the expenditures as making a "startling comparison" with those of former years.

The election in November, 1873, resulted favorably to the Republicans, notwithstanding the dissatisfaction of a large number who organized under the name of "The Republican Party of Mississippi." The Democratic party held a convention. They decided to put no candidates in the field for state officers. It was understood that they would support the liberal ticket. They failed to do so, cordially. The regular Republicans nominated General Ames for governor, Alexander Davis, a colored man, for lieutenant-governor, James Hill, colored, for secretary of state, and J. W. Cardozo, colored, for

superintendent of education. The nominees of the regular Republicans for attorney-general, auditor, and treasurer were denounced by the Liberals as corrupt or incompetent. General Ames was denounced as an irresponsible non-resident. The same terms were applied to one or more of his colleagues on the ticket. The Liberals re-nominated ex-Governor Alcorn for the governorship. The result of the election was that Ames received 74,307 votes as against 52,904 for Alcorn. The senate was made up of twenty Republicans and fourteen Democrats, and the house of representatives of sixty-eight Republicans and forty-four Democrats.

Enormous as were the taxes, they failed to equal the expenditures during the four years beginning with 1870. The excess of expenditures was $871,947. A general convention of tax-payers without regard to party met at Jackson on the fourth of January, 1875, for the purpose of bringing about reforms in the administration of state affairs. A committee was appointed which drew up a petition. It set forth, in respectful language, the grievances. It represented that the people were growing poorer, and that the value of their land was reduced, which they attributed to the extravagant expenditures of the state government, and to the consequent increase of taxation. They represented that the tax on land in 1869 was ten cents on the $100 of assessed value; that that tax was four-fold greater in 1871, eight times greater in 1872, twelve and one-half times greater in 1873, and fourteen times greater in 1874. It was alleged that the assessment of property was greatly above its market value.

Several bills were introduced in the legislature having in view the reduction of expenses, but they were defeated by the colored members, who constituted a large part of the body, and who voted solidly against them.

In 1875 the Democrats made a determined effort to regain power. Their convention, which met at Jackson on the 3d of August, and of which Mr. Lamar was the leading and courageous spirit, adopted an extremely liberal platform. The Republican platform was a repetition of the well-known principles of that party. The canvass was attended with much disorder and bloodshed. Governor Ames applied to President Grant for troops to quell the "domestic violence." His application was refused. President Grant telegraphed to the attorney-general that the public was tired of the annual autumnal outbreaks in the South.

Failing to obtain this military aid, Governor Ames undertook to organize the militia to aid the sheriffs in the preservation of peace while the election was pending. This proceeding brought forth an earnest protest from the Democratic state committee, in which the governor was charged with endeavoring to incite a war of races.

The election resulted in an overwhelming Democratic victory. The Democratic candidate for treasurer received 96,596 votes, against 66,155 for the Republican candidate. Of the six members of Congress to which the

state was entitled, five Democrats were elected, including Mr. Lamar, in the First district. The state senate stood twenty-six Democrats and eleven Republicans, and in the house of representatives there were ninety-seven Democrats and twenty Republicans, so that on joint ballot in the legislature the Democrats had a majority of ninety-two. The credit for this result is largely due to the present United States Senator George. There can be little doubt that if military government had prevailed in Mississippi during the election these figures would have been reversed, and this fact is conclusive with many why military rule should have continued. But to take that position, is to admit that the large negro majority in the state, with the few thousand whites who acted with it, was incapable of governing the state; and that the white minority, unaided by the Federal military force and without Federal patronage, could govern it. A state administration which cannot stand alone has no reason of being. It ought to stand aside. Moreover, it is in accordance with the fitness of things that the intelligent tax-payers should have some voice in the control of the state that imposes the taxes.

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Arkansas belonged to the Fourth military district. Gen. E. O. C. Ord was appointed its commander. He entered upon his duties March 26, 1867. On the 15th of April he addressed a note to Gov. Isaac Murphy, notifying him that the provisional legislature, which had recently been in session, must not re-assemble. He ordered the seizure of the public money in the hands of the state treasurer. The reasons which he assigned to the Secretary of War for these proceedings were: that the legislature proposed to impeach a judge, mainly for the reason that he had protected loyal men; and that the state treasurer was disloyal. In a general order of the 6th of September, 1867, he enjoined the courts against proceeding with the trial of offenders in cases wherein two credible men would swear to their belief that justice would not be done. This order was subsequently modified by Gen. A. C. Gillem, to the extent of having a military officer detailed to pass upon the question of jurisdiction of the courts.

The result of the state registration was, that there were 66,316 voters registered. Of these, 43,170 were white and 23,146 colored. The vote on the question of calling a convention to frame a constitution was small, being little more than half the registered vote, 24,973 for, and 11,293 against it. Nearly all the delegates chosen were radicals. The constitution framed by this convention was adopted by a vote of 27,913 for it, and 26,597 against it. Nearly twenty thousand registered voters refrained from voting. It was charged, and proved, that undisguised frauds were perpetrated to secure the result. Ballot-box stuffing, "repeating," and other forms of carrying elections were resorted to. When even these were not effectual, the votes of Democratic counties and precincts were thrown out entirely. The restrictive clauses of this constitution were most oppressive, depriving large [illegible] of [illegible] classes [illegible]

the white population of the right to vote or hold office. These were all, however, omitted from the constitution of 1874.

Mutual charges of fraud on the one part and intimidation on the other part were made by the opposition parties in reference to this election. It was represented on the Democratic side that Little Rock was overrun with political adventurers charmed with the allurements of office and flattered by the hope of greatness; that these men, many of them being registrars, had committed frauds which they justified by falsehood and were willing to clinch with perjury; that there was a greater amount of scoundrelism there than ever was before concentrated at one place in the same age; that the frauds committed upon the ballot in many of the counties were shameless and enormous, having no parallel in all history; that women and children were allowed to vote; that they voted early and voted often, traveling from ballot-box to ballot-box; that some ballot-boxes were stuffed, while votes were abstracted from others; that votes offered by duly-registered voters were torn up and thrown under the table by the registrars, and that the indefinite continuance of military authority was preferable to the sanctioning of these shameless frauds. On the other side, it was charged that the freedmen were to a large extent intimidated and deterred from voting, and that a general conspiracy had been entered into by what was known as the "White Man's party," to prevent freedmen from voting at all hazards. These charges were made in relation to several townships and counties. Congress, however, took little notice of these mutual charges, or of the doubt thus thrown on the election. Having decided to admit Alabama, whose people had failed to ratify the constitution by a majority of the registered votes, it would have seemed whimsical to higgle over Arkansas on account of some alleged irregularities by which the majority was secured. The state was admitted on June 22. President Johnson vetoed the act; but Congress passed it over the veto. The act imposed the same condition with respect to amendment of the constitution in regard to the elective franchise that was afterward prescribed in the cases of North Carolina and other states, and that has already been noted in an earlier chapter.

The legislature assembled on the 1st of April, 1868, without waiting for the formal announcement of recognition by Congress. It revised the laws. It ratified the Fourteenth Amendment on the 6th of April. The acts passed before the admission of the state were held by the legislature to have been made valid by that event. The military commander, in a general order dated June 30, declared that the acts of Congress under which the state had been acting in military subjection had ceased to have force. Accordingly he turned over to the civil authorities the public archives, buildings, and all property of the state.

The governor-elect, Powell Clayton, was inaugurated on the 2d of July, 1868. In the Presidential election of that year, General Grant received

22,152 votes, and Mr. Seymour 19,078. The aggregate vote was less than the white registered vote alone. The legislature which was elected at the same time contained only two Democrats — one in each house. Two years afterward the Democrats elected two out of the three congressmen. They made large gains in the legislature — the senate consisting of eighteen Republicans and eight Democrats (or "Conservatives"), and the house of forty-five Republicans, twenty-nine Democrats, and nine Liberals. Two of the senators and eight of the representatives were colored.

The legislature, in 1869, passed an act for funding the public debt. This gave rise to much controversy. Some thirty years previously the state had lent its credit, in the shape of six per cent. bonds to the amount of $500,000, to an institution known as the Real Estate Bank; and to the amount of $441,000 to the State Bank. The bonds issued to the Real Estate Bank were hypothecated to the American Trust Company of New-York, to cover a loan of $121,336. They were subsequently pledged by the Trust Company to a London banking firm, for a loan of $325,000. The Trust Company became insolvent. The state bonds passed into the ownership of James Holford, of London. At that time they were ascertained to be of the actual value of $425,000. Although, according to legal and equitable principles, the state was only liable for the amount for which the bonds were pledged with the American Trust Company, and which, with interest to 1869, made $340,000, the legislature passed an act authorizing the issue of new bonds to Holford or his assigns to the amount of $1,370,000, being for the full original sum of $500,000, with interest from September, 1840, to January, 1870. No such act could have passed in a legislature whose members represented the tax-payers. Certainly it was not passed out of respect for the plighted faith of the state.

Governor Clayton, although sufficiently influential to secure an election to the United States Senate at a later day, was growing unpopular with his party. Resolutions denouncing his administration were adopted at a public meeting held at Little Rock in April, 1869. At that meeting, eighteen members of the legislature are said to have been present. His management of affairs was denounced as criminal and corrupt. The legislature also came in for a share of this condemnation, especially in regard to the funding of the public debt.

Governor Clayton was elected Senator on the 10th of January, 1871, by a vote of ninety-four, on joint ballot, in a total vote of 103. The term was to commence on the 4th of March following. A quarrel had sprung up between the governor and the lieutenant-governor, Johnson. A desperate effort was made to get rid of Johnson, so that he should not succeed to the governorship. Articles of impeachment were introduced against him on the ground that he had "wrongfully and corruptly" sworn in Joseph Brooks as a state senator before the senate had passed upon his credentials. This

attempt met with little favor. It was indefinitely postponed. Another equally futile attempt to get him out of the way was based upon his non-compliance with the law in respect of the time at which he should take the oath of office. But Clayton was not to be balked in his determination to keep Johnson out of the executive chair. He declined the senatorship rather than have Johnson as his successor. He stated in his letter of declination that an anti-Republican coalition had been formed under the leadership of the lieutenant-governor between a few Republicans and the conservatives of both houses, having for its object the overthrow of the existing state government on the one part, and the gratification of private malice and revenge on the other; and that he could not, by any act of his, be instrumental in placing the leader of that coalition in the executive chair.

The reasons assigned by Governor Clayton for his course seem manly and honorable. His action upon them displayed an unusual degree of courage and firmness. As a rule, the office of governor is esteemed chiefly as a stepping-stone to the Federal Senate, and in this case the term of Governor Clayton had less than two years to run, with only a chance of his re-election.

A counter-attempt was made on the part of the lieutenant-governor and his friends to impeach the governor on various charges. Another attempt was made to impeach Judge McClure, of the supreme court. Both failed. Finally, the rivals concluded to bury their quarrel. The governor induced the lieutenant-governor to accept the office of secretary of state. This was a position that was preferable to the contingent right to the executive office. A. W. Hadley, a friend of Clayton's, was then chosen president of the senate, which officer is *ex officio* lieutenant-governor. The succession being thus arranged in the interest of the Republicans, Clayton was again elected United States Senator.

The elections in the fall of 1872 resulted in another Republican victory. President Grant received 41,073 votes, and Mr. Greeley 37,927; Baxter, the Republican candidate for governor, received 41,681 votes, and his opponent, Brooks, 38,415. The other Republican candidates for state office received majorities not materially different from those of the President and governor. There were four counties from which no returns were made or counted. In these counties the Democrats were in the majority. There were irregularities in the registration. The registrars had failed or neglected to perform their duties, and in most cases where this was the case there was no election held. Much complaint was made, and on the 20th of December, 1872, one of the Senators from that state, Mr. Rice, offered a resolution in the Senate of the United States for the appointment of a committee to proceed to Little Rock and investigate all matters growing out of the election.

Mr. Rice had supported Mr. Greeley's candidacy. He said, in support of his resolution, that the names of nearly thirty thousand registered voters had been arbitrarily, and without notice, stricken off the registration-books;

and that as many as fifteen thousand votes had been counted that had never been cast. Notwithstanding all this, when the returns came to be made up, they showed, he said, that the Democrats had a clear majority of about three thousand; and, to avoid these returns as originally made out, certain counties and precincts were thrown out, and other falsifications of returns made; so that there was a majority of about three thousand made out the other way. Mr. Clayton, the colleague of Mr. Rice, contented himself with a bantering reply. He made a general but not a specific denial. The resolution was not acted on, the majority in the Senate being averse to the proposed investigation.

But a revolution of politics caused the Republicans, a year or two afterward, to see the matter in a different light. By a not singular turn of affairs in the history of reconstruction, the parties to the controversy changed sides; or, at least, changed their relations to the dominant party in Congress. Baxter became identified in interest with the Democrats, while Brooks went over to the Administration, which met him half way. The general assembly counted the votes for governor, and declared Baxter elected on January 19. In April, Brooks petitioned that body to be allowed to contest the election, but his application was voted down by sixty-three to nine.

Mr. Brooks then made an application to the circuit court for an injunction to restrain Baxter from exercising the office of governor. This was denied. He next applied to the supreme court for a writ of *quo warranto*. This was denied. It was denied on the ground that the determination of the question was vested by the constitution exclusively in the general assembly, and that no state court had jurisdiction.

Finally, Brooks brought suit against Baxter in the circuit court of Pulaski County, under section 525 of the civil code, anterior to the constitution of 1868. This section provided that an action at law might be instituted against any person who usurped an office or franchise to which he was not entitled by law; and that the action might be brought either by the state or by the party entitled to the office or franchise. In his petition Brooks claimed that he had received more than 45,000 votes, while Baxter had received less than 30,000. He asked that Baxter should be ousted, and that he, Brooks, should be awarded $2,000 for salary.

Mr. Berry, who claimed to have been elected auditor on the same ticket with Mr. Brooks, made the same kind of demand. The case against Baxter was pushed through rapidly. It precluded a similar recourse on his part; and the Pulaski court decided against him, on a demurrer to the jurisdiction.

Brooks had his plans arranged. With a sufficient force of men, he took possession, in the absence of Baxter, of the governor's office, including the public records and the great seal. This happened on the 15th of April, 1874. Governor Baxter, on learning these facts, took up his quarters at St. John's College, in another part of the town. Both governors, on the same

day, sent dispatches to President Grant. Brooks announced his installation as governor by the judgment of a court. He asked that the commanding officer at the arsenal be instructed to deliver to him the arms in his custody belonging to the state, or to hold them subject to his, Brooks's, order. No allusion was made to the rugged road by which he had reached the executive chair. Baxter, in his dispatch to the President, briefly recounted the facts of the seizure of the office by his rival. He described them as revolutionary. He stated his purpose to take measures immediately to resume possession of the state property, and to maintain his authority. He expressed the hope that the matter might be settled without bloodshed. He requested the President to authorize the officer in command at the United States arsenal to sustain him.

The application of Brooks to be put in possession of the state arms was rejected, on the ground that his claim of right to the office of governor had not been finally decided by the courts of the state. Baxter was informed by a telegram from Attorney-General Williams, and by authority of the President, that his call for aid was not made in conformity with the Constitution and laws of the United States, and that, as the controversy related to the right to hold a state office, its adjudication belonged to the state courts.

Each party proceeded to raise military forces. War threatened. In this undertaking Mr. Baxter seems to have been the more successful. He was soon strong enough to besiege his rival in the state house, and several collisions occurred, not without bloodshed. After the interchange of several dispatches between the President or Attorney-General and the rival claimants of the governor's office, the President proposed a compromise. It was that the two should issue simultaneous proclamations for the assembling of the legislature, at the same place, on the same day. The President suggested to Brooks that in this way his friends whom he claimed to be elected to the legislature could be brought into that body. As the legislature had already been organized by the friends of Baxter, this proposition was manifestly favorable to his claims. But, strange to say, while Brooks promptly accepted it, Baxter declined it, on the ground that it would be an admission of Brooks's right of contest. Besides, Baxter had already issued a call for a special session of the assembly. As soon as that body met, it repeated its former decision, that Baxter was the duly-elected governor. This point having been decided, President Grant issued a proclamation, dated May 15, 1874. It recognized Baxter as governor. It characterized the Brooks movement as a combination on the part of "certain turbulent and disorderly persons" to resist with force and arms the authority of Elisha Baxter, the executive of Arkansas; and commanded them to disperse and retire peaceably to their several abodes, and to submit themselves to the lawfully constituted authorities of the state.

This executive mandate, of course, put an end to the controversy. But,

somehow, during its continuance Baxter had become reconciled with the white race, or the Democratic element, while the sympathy of the opposite party had been transferred to Brooks. The change was not without its influence upon the mind of President Grant, as will presently be shown.

The same legislature which settled the gubernatorial controversy to the satisfaction of the President passed an act providing for the call of a constitutional convention. This convention assembled on the 14th of July; — 80,259 votes having been cast in favor of it, and only 8,607 against it. It was composed of ninety-one delegates. Radical changes were made in the constitution of 1868. All the changes favored "a larger liberty." All the old proscriptive clauses were swept away. It was provided that the judicial and other state officers should be elected by the people instead of being appointed by the governor. That official is said to have had more official patronage than any other state governor. Many other changes were made, but no right of the colored race was abridged.

The new constitution was ratified on the 13th of October, 1874, by a vote of 78,697 for it, to 24,807 against it. This immense majority in its favor shows that the people had no sympathy with the proscriptive policy of the Northern adventurers, nor with their scheme for prolonging their hold on power by conferring the appointments to office on the governor. The legislature and state officers were chosen on the same day. The nomination for the governorship was offered to Baxter by the Democratic convention. This shows that he had, with great good sense, gone to that party. But he declined; and Mr. Augustus H. Garland was nominated and elected governor. He lives to illustrate his fitness as the great friend of popular government and legal interpretations.

At the nominating convention held by the Republicans on the 15th of September, they adopted a long address. They declared the acts of the constitutional convention null and void. Had it not been called by a man called Baxter, who was not governor? Had he not been ousted from that office by the decision of the Pulaski County court? They asserted that Brooks was governor, and that all Baxter's official acts were illegal.

The singular turn of affairs in Arkansas by which the leaders of the two parties were found to have exchanged positions, and by which the parties themselves changed positions, had its effect on President Grant. It caused him also to change his course. In a message to the Senate, dated Feb. 8, 1875, — less than nine months from the date of his proclamation denouncing Brooks and his supporters as "turbulent and disorderly," — he expressed the opinion that Brooks had been lawfully elected governor in 1872, and had been since that time unlawfully deprived of his office; that the constitution of 1868 had been overthrown, the new constitution adopted, and the new state government established by violence, intimidation, and revolutionary proceedings; and that, if these proceedings were allowed to stand, the rights of mi-

norities in all the states would be practically ignored. He submitted whether such a dangerous precedent should be recognized by Congress. He asked that Congress should take definite action in the matter. Congress took its best step toward regeneration then and there. Judge Poland was its exponent. Let it be known that Baxter was the radical Republican candidate for governor in 1872, while Brooks was the Greeley-Republican candidate, with the Democrats as his chief supporters; that a Republican legislature counted the vote in January, 1873; that it declared their candidate, Baxter, elected by a majority of between three and four thousand votes; that the same assembly rejected, by a vote of sixty-three to nine, Brooks's petition for leave to contest the possession of the office; that the supreme court of the state refused to hear his case; and that President Grant had pronounced Baxter to be the lawfully elected governor. And yet President Grant sent this message to Congress in February, 1875,—Brooks having in the meantime joined the Republicans and Baxter having coalesced with the Democrats:

"There can be no doubt that Brooks was defrauded of his right to the office of governor. But the Republican legislature which 'counted him out' had under the constitution the exclusive right to count the vote and declare the result. Redress can only come from the people at the next election."

But Brooks in the meantime had drifted into the ranks of his enemies.

Notwithstanding General Grant's potentiality then and there, his appeal to Congress to intervene in behalf of Brooks and of the old constitution was without effect. The House of Representatives had appointed a committee to investigate the affairs of Arkansas. That committee made majority and minority reports on the 6th of February. The majority report, made by the chairman, Mr. Poland, of Vermont, was to the effect that the government of Arkansas was proceeding peaceably and prosperously, and that there was nothing in the history of the adoption of the new constitution that called upon Congress or any department of the government to step in and wipe it out. Mr. Poland,—a grand tribune of the states and of the people,—in a speech advocating the adoption of the majority report, reminded his political friends that Brooks, with the emphasis of honesty and the courage of an honest soul,—that man who now so commended himself to them,—had been the candidate of the Democrats and of the Greeley Republicans. He reminded them that the fraud upon him had been carried out by the regular Republican organization, at whose head stood Senator Powell Clayton, with Chief Justice McClure, sometimes designated by the unprofessional name of "Poker Jack," next in command.

Referring to a figure of speech used in the discussion by Mr. Coburn, of Indiana, who said that "the lawful and exiled governor of Arkansas had been stalking like a ghost in their midst for the whole winter," Judge Poland re-

marked that the "ghosts" who marched by his side were the very men who had defrauded him out of his election, who had cheated him in every possible way, who had stuffed ballot-boxes, had figured with the returns, and who had kept out the votes of three whole counties, and of forty or fifty townships in other counties.

No further action was taken in the matter either by Congress or the national executive, and the government of Arkansas was left to itself, untroubled by Federal interference.

The majority report of the "joint select committee on the condition of affairs in the late insurrectionary states," made the 19th of February, 1872, states that the debt of Arkansas was, in 1860, $4,036,952; in 1865, exclusive of the debt incurred in the rebellion, which was repudiated, $4,527,879; in 1868, $4,820,630; and on the 14th of November, 1871, $5,361,265, with "contingent liabilities" for railroads amounting to $6,512,694, and with "prospective contingent liabilities" amounting to $7,877,306.

The minority report states the debt at the same date as follows:

Bonded and funded debt,	$5,051,265
Floating debt,	190,000
Due for interest,	120,000
Amounts awarded to railroads,	11,400,000
Levee bonds,	3,000,000
Total,	$19,761,265

The enormous increase of the taxes, state and county, was not sufficient to satisfy the rapacity of the adventurers.

There are so many ways of stating the amount of the public debt, as the debt proper and the debt contingent, that it is difficult to arrive at any clear notion of it, except that the debt of Arkansas was greatly increased. Besides, there was the expenditure of an immense revenue during the Republican or carpet-bag rule, and there was nothing in the way of public improvements left to show for the expenditure.

CHAPTER XXXI.

RECONSTRUCTION IN THE FIFTH MILITARY DISTRICT.

LOUISIANA — GENERAL SHERIDAN'S REMOVAL OF STATE OFFICIALS — HIS QUARREL WITH, AND REMOVAL OF, GOVERNOR WELLS — THE PRESIDENT'S ORDER AS TO REGISTRATION DISREGARDED — RESULTS OF REGISTRATION — FORTY THOUSAND WHITES EXCLUDED FROM SUFFRAGE — REMOVAL AND APPOINTMENT OF NEW ORLEANS ALDERMEN AND OTHER OFFICERS — GENERAL SHERIDAN SUCCEEDED BY GENERAL HANCOCK — HIS SPECIAL ORDER ON ASSUMING COMMAND — RE-INSTATEMENT OF STATE OFFICIALS — MEETING OF THE STATE CONVENTION — THE NEW CONSTITUTION RATIFIED BY THE PEOPLE — GENERAL HANCOCK'S REMOVAL OF OFFICIALS NOT SUSTAINED BY GENERAL GRANT — GENERAL HANCOCK RELIEVED AT HIS OWN REQUEST — THE DISFRANCHISING CLAUSE OF THE CONSTITUTION — THE PRESIDENTIAL ELECTION IN NOVEMBER, 1868 — IMMENSE DEMOCRATIC MAJORITIES — EXPLANATION OF THE FACTS — THE NEGROES TERRORIZED AND LARGE NUMBERS OF THEM KILLED — THE LEGISLATURE OF 1869 — GOVERNOR WARMOTH'S MESSAGE — MEASURES OF SOCIAL EQUALITY AND OF PUBLIC PLUNDER — LOW OPINION OF THE MEMBERS — LOBBYING AND BRIBING BY THE "BEST PEOPLE" — THE STATE AUDITOR IMPEACHED — THE ELECTION OF NOVEMBER, 1870 — THE REPUBLICANS TRIUMPHANT — REPEAL OF THE DISFRANCHISING CLAUSE — QUARREL BETWEEN THE REPUBLICAN FACTIONS — MOVEMENTS AND COUNTER-MOVEMENTS — CHARACTER OF GOVERNOR WARMOTH — HIS EXPOSURE OF LEGISLATIVE PROFLIGACY — MUTUAL CHARGES OF KNAVERY BETWEEN THE REPUBLICAN LEADERS — HOW THEY ALL ENRICHED THEMSELVES — THE FALL ELECTION OF 1872 — TWO RETURNING BOARDS DECIDING THE RESULTS DIFFERENTLY — RIVAL LEGISLATURES — WARMOTH IMPEACHED — PINCHBACK ASSUMES THE EXECUTIVE OFFICE, AND IS SUSTAINED BY PRESIDENT GRANT — THE PACKARD LEGISLATURE, AND ITS METHODS — THE McENERY LEGISLATURE ORGANIZED AND SUSTAINED — TWO GOVERNORS — KELLOGG AND McENERY INAUGURATED — SENATE COMMITTEE OF INQUIRY — McENERY SUSTAINED BY THE PEOPLE — ARREST OF THE McENERY LEGISLATURE — MILITARY RECOGNITION OF THE KELLOGG GOVERNMENT — McENERY GIVES UP THE FIGHT — SANGUINARY CONFLICTS IN THE PARISHES — THE COUSHATTA MASSACRE — UPRISING IN NEW ORLEANS AGAINST THE KELLOGG GOVERNMENT — PROCLAMATION BY THE PRESIDENT — KELLOGG'S GOVERNMENT RE-ESTABLISHED BY THE MILITARY — COMPROMISE EFFECTED BY A HOUSE COMMITTEE — FINANCIAL STATEMENT — TEXAS — GENERAL SHERIDAN'S REPORT OF THE BAD CONDITION OF AFFAIRS — GENERAL GRIFFIN'S ORDER — REMOVAL OF THE GOVERNOR AND OTHER STATE OFFICIALS — GENERAL SHERIDAN'S REPORT — HIS REFLECTIONS ON PRESIDENT JOHNSON — THE CONSTITUTIONAL CONVENTION — STATISTICS OF CRIME — THE CONSTITUTIONS OF 1868 AND 1876 — GENERAL REYNOLDS CO-OPERATING WITH THE RADICALS — FINANCIAL STATEMENT.

GENERAL Philip Sheridan was appointed commander of the Fifth military district, composed of the states of Louisiana and Texas. In his order assuming command, he announced that the existing state and municipal governments of Louisiana and Texas were provisional only, but that no removals from office would be made unless the incumbents should fail to carry out the provisions of the reconstruction law, or impede "reorganization."

Among the first acts of General Sheridan as commander of the Fifth district were the removals of Judge E. A. Abell, of the criminal court of New Orleans, Andrew S. Herron, Attorney-General of the State of Louisiana, and John T. Monroe, Mayor of the city of New Orleans. These removals were made on the 29th of March, 1867. The ground stated for Judge Abell's removal was that he had, for nine months previous to July 30, 1866, been educating a large portion of the community to the perpetration of the outrages which were committed on that day, by almost promising that there should be no prosecution in his court against the offenders in case such an event occurred. The reason given for the removal of Attorney-General Herron was that, instead of indicting the rioters he indicted the victims, and was therefore a suspected coadjutor of Judge Abell in bringing on the massacre. As to Mayor Monroe, the reason given was that he controlled the element engaged in the riot, and felt secure in the support of the attorney-general who would not prosecute the guilty, and of the judge who advised the grand jury to find the innocent guilty and let the murderers go free.

The registration was ordered to commence on the 1st of May and to be completed on the 30th of June. General Sheridan stated in a dispatch to General Grant, that he anticipated no trouble in the work, and that the people generally would register. He said that he had in no way sought to mould the public mind to an acceptance or non-acceptance of the law, but had informed the people that the law would be enforced and the reorganization accomplished; and that he thought his course was not unacceptable to a majority of the people in the state. He said that, in appointing registrars throughout the state, he had invariably selected two citizens residents of the parish, and one ex-army officer from the city of New Orleans. This gave him, he said, a check on each board by having a tried and true man as chairman. He added that he had the boards supervised by intelligent army officers. He intimated that the Attorney-General of the United States should not hamper him too much, as no one could conceive or estimate, at so great a distance, the precautions necessary to be taken in the existing condition of society there.

The legislature of Louisiana, at the session of 1866–'67, had appropriated $4,000,000 in state bonds for repairing the levees. The disbursement of this money gave rise to a quarrel between the governor, James Madison Wells, and the legislature. General Sheridan settled the controversy somewhat after the fashion of the monkey in the fable, when the cats quarreled over the cheese. Both governor and legislature were dismissed, and the money was placed in the hands of a board of commissioners selected by the commander of the Fifth military district. This board was appointed by him on the 3d of May. On the 3d of June, General Sheridan issued a special order embodying a dispatch from Secretary Stanton which directed the suspension of proceedings on the part of the board. The same special order contained

the following clause: "His Excellency, the Governor of Louisiana, J. Madison Wells, having made himself an impediment to the faithful execution of the act of Congress of March 2, 1867, by directly and indirectly impeding the general in command in the execution of the law, is hereby removed from the office of governor of Louisiana, and Mr. Thomas J. Durant is appointed thereto. Mr. Durant will be obeyed and respected accordingly."

Mr. Durant declined this appointment, and Benjamin F. Flanders was appointed in his stead.

Governor Wells resisted the order of dismissal as well as he could, but succumbed to the following mandate, dated New Orleans, June 7, and addressed to Mr. J. Madison Wells, ex-Governor of Louisiana: "Sir,—General Flanders has just informed me that he made an official demand on you for the records of the office which you have hitherto held as governor of Louisiana, and that you have declined to turn them over to him, disputing the right to remove from office by me, which right you have acknowledged and urged on me up to the time of your removal. I therefore send Brevet Brig.-Gen. James W. Forsyth, of my staff, to notify you that he is sent by me to eject you from the governor's room forcibly, unless you consider this notification as equivalent to ejection."

Governor Wells denied in a statement to the President the charges made against him by General Sheridan, as well as his right to make the removal, and in his turn charged the general with being actuated by spite and malice. It is needless to say that Wells surrendered to this peremptory summons, and that Flanders assumed the duties of the office.

In a dispatch to Secretary Stanton of June 3d General Sheridan says: "I say, unequivocally, that Governor Wells is a political trickster and a dishonest man. I have seen him myself, when I first came to this command, turn out all the Union men who had supported the government, and put in their stead rebel soldiers, some of whom had not yet doffed their gray uniform. I have seen him again, during the July riot of 1866, skulk away where I could not find him to give him a guard, instead of coming out as a manly representative of the state and joining those who are preserving the peace. I have watched him since, and his conduct has been as sinuous as the mark left in the dust by the movement of a snake."

In a letter to General Grant on the same subject General Sheridan said that he had found it necessary to remove Governor Wells, who had embarrassed him very much by his subterfuge and political chicanery; that this necessary act would be approved by every class and shade of political opinion, and that Wells had not a friend who was an honest man. In another letter he gave it as his opinion that, by the removal of Wells and the appointment of Flanders, the back-bone of the trouble had been broken.

On the 21st of June, Adjutant-General Townsend sent a dispatch to the commander of the Fifth district, directing him not to close the registra-

tion in Louisiana before the 1st of August. An announcement had been made that it would be closed at the end of June. General Sheridan, in a dispatch to General Grant, entered a sort of protest against this order, and against the Attorney-General's interpretation of the law, stating that it was practically opening a broad, macadamized road for perjury and fraud to travel on. He added: "I regret that I should have to differ with the President, but it must be recollected that I have been ordered to execute a law to which the President has been in bitter antagonism." Still, he said he would extend the time at once if the President's order were peremptory. It may be added that this deference to the authority of the President, reluctant though it was, and not without a protest against the necessity of obedience, preceded the passage of the supplementary bill which stripped the President of his constitutional rights as the chief executive of the Union, and conferred them, in the premises, upon the General of the army. That act bears date July 19, and besides directly limiting to these officers authority to interpret the acts, it declares "that no district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States."

General Sheridan informed General Grant on the 28th of June that the Adjutant-General had sent him the opinion of the Attorney-General, construing the Reconstruction acts; but he expressed a doubt as to whether he must regard that as mandatory, as coming from the President. General Grant replied as follows: "Enforce your own construction of the military bill until ordered to do otherwise. The opinion of the Attorney-General has not been distributed to the district commanders in language or manner entitling it to the form of an order, nor can I suppose that the President intended it to have such force."

The numerous classes which were excluded from registration by the military construction of the law, and which included justices of the peace, clerks of courts and their deputies, sheriffs and their deputies, constables and their deputies, tax collectors, assessors, coroners, police jurors, auctioneers, all who had served on the police force, members of the board of health, and others too numerous to mention, notwithstanding that they had been declared by Mr. Stanbery, the Attorney-General, to be entitled to that privilege, were thus ruled out. The books of registration were kept open, however, until the 31st of July. The result of the registration shows how rigorously the military idea was carried into effect. The two races in Louisiana were about equal in numbers; but of the 127,639 who were registered, only 47,732 were white, while 82,907 were colored.

An election was held on the 27th and 28th of September, to decide whether a convention should be called to amend the constitution, and the result was that there were 75,083 votes cast for a convention, and only 4,006

against it. Comparing the white registration with the census, it appears that some forty thousand whites must have been excluded from the right of suffrage.

On the 1st of August, General Sheridan removed twenty-two New Orleans aldermen and appointed others in their stead, assigning as his reasons for the removal, the disturbed condition of affairs to which they had brought the city, and the efforts made by them to impede the execution of the act of Congress. During the same month, the city treasurer, the chief of police, and the city attorney were removed for like reasons, and others were appointed in their stead. In the parishes, justices, sheriffs, and other officers were removed on specific charges of screening murderers, or allowing them to escape from prison.

On the 17th of August, the President issued an order relieving General Sheridan from the command of the Fifth military district, and directing that Gen. George H. Thomas should succeed him. But it being represented to the President that General Thomas's health was infirm, and that the climate would not agree with him, Gen. Winfield S. Hancock was assigned to the command of the Fifth district. During the interim, General Sheridan having been sent to Fort Leavenworth in command of the Department of Missouri, General Griffin, commander of the sub-district of Texas, was appointed temporary commander of the Fifth military district. He, however, died of yellow fever, and was succeeded by Maj.-Gen. Joseph A. Mower.

It having been represented to General Mower that political organizations, composed mostly of negroes, were in the practice of assembling in armed bands under military leaders, greatly to the annoyance of peaceful people, that officer issued a general order that such practices should be discontinued. He also removed the lieutenant-governor, the secretary of state, the treasurer, the auditor of public accounts, and many other officers, as "impediments to reconstruction," and appointed others in their places. The order on that subject was issued on the 21st of November, 1867, but was suspended by order of General Grant.

General Hancock arrived in New Orleans on the 28th of November, 1867, and on the next day announced his assumption of the command of the Fifth district, in a special order. The second paragraph of this order reads as follows:

"The general commanding is gratified to learn that peace and quiet reign in this department, and it will be his purpose to preserve this condition of things. As a means to this great end he regards the maintenance of the civil authorities in the faithful execution of the laws as the most efficient under existing circumstances. In war it is indispensable to repel force by force, and to overthrow and destroy opposition to lawful authority; but when insurrectionary force has been overthrown, peace established, and the civil authorities are ready and willing to perform their duties, the military power

should cease to lead, and the civil administration resume its natural and rightful dominion. Solemnly impressed with these views, the general announces that the great principles of American liberty still are the lawful inheritance of this people, and ever should be. The right of trial by jury, the *habeas corpus*, the liberty of the press, the freedom of speech, and the natural rights of persons and the rights of property must be preserved. Free institutions, while they are essential to the prosperity and happiness of the people, always furnish the strongest inducements to peace and order. Crimes and offenses committed in this district must be referred to the consideration and judgment of the regular civil authorities, and these tribunals will be supported in their lawful jurisdiction. Should there be violations of existing laws which are not inquired into by the civil magistrates, or should failures in the administration of justice by the courts be complained of, the cases will be reported to these headquarters, when such orders will be made as may be deemed necessary. While the general thus indicates his purpose to respect the liberties of the people, he wishes all to understand that armed insurrections or forcible resistance to the laws will be instantly suppressed by arms."

The principal departure of General Hancock from the policy pursued by his predecessors related to the organization of juries. General Sheridan had issued an order requiring the state authorities to make no distinction as to race or color in the organization of juries. General Hancock superseded this order by one remanding the subject to the state authorities and the civil courts, and in order to avoid the annoyance of frequent applications to him for his intervention in private suits and controversies, he issued an order declaring that "the administration of civil justice appertains to the regular courts. The rights of litigants do not depend on the views of the general. They are to be adjudged and settled according to the laws. Arbitrary power, such as he has been urged to assume, has no existence here. It is not found in the laws of Louisiana or Texas. It cannot be derived from any act or acts of Congress. It is restrained by the Constitution." General Hancock reinstated several of the state officers who had been removed by General Mower, and that officer was himself relieved from his command in the district.

The state convention met on the 23d of November, 1867, and at the end of a month had completed a draft of a constitution, which was adopted March 2, 1868. A tax on property of one mill per centum was authorized for the purpose of paying the members and defraying the expenses of the convention. The delegates to the convention were nearly all Republicans, and about half of them, colored. The proceedings of the convention as published convey no information in regard to the party relations of members, except what may be inferred from their votes and remarks; but it is said that twenty colored men voted for and twenty against the disfranchising clause. The vote in the convention upon the adoption of the constitution as

a whole was—yeas 71, nays 6. Several delegates signed under protest, among them a colored man, Thomas W. Martin, of Jefferson Parish, who objected to the proscriptive article. The constitution was ratified by the people on the 17th and 18th of August, by a vote of 66,152 for and 48,729 against, the majority being 17,413.

Mild and liberal as had been the administration of General Hancock, he found it necessary to remove certain officials, and in this he was not sustained by General Grant. William Baker, the street commissioner, was removed on charges of malfeasance in office, after an investigation; and Arthur Gustinel, recorder for the second district, was removed in consequence of a decision of the supreme court declaring him ineligible. The city council immediately adopted a resolution ordering an election of a recorder, notwithstanding that it was reminded of General Sheridan's order forbidding elections not specially authorized by the commanding general. In consequence of this action of the council, General Hancock immediately removed all the members who had voted for the measure. There were nine of them, seven being colored, and two white. He telegraphed the facts to General Grant, who replied, directing General Hancock to suspend his orders of removal, and to report the facts more fully. General Hancock, in his answer, insisted that all essential facts were furnished in the dispatch, and that he regarded what he had done as essential to the maintenance of the authority and dignity of his office; and he intimated a wish to be recalled unless he were sustained. But the result was that an order came from the general-in-chief directing that the council be restored; and, later on, the street commissioner was reinstated. General Hancock thereupon asked to be relieved from his command. He was accordingly relieved, and was succeeded by Gen. J. J. Reynolds on the 18th of March, who in a few days was succeeded by Brevet Maj.-Gen. R. C. Buchanan. There can be no doubt that this interposition from headquarters in favor of the municipal officials was due to their political character and complexion. The time had passed by when black men had no rights which white men were bound to respect; and the reverse rule seemed to be coming into use.

In general terms the new constitution conferred the right of suffrage on all male persons twenty-one years old, native and naturalized, except those specially excepted. These were (as stated in Article XCIX.), all persons convicted of treason, forgery, bribery, or other crime punishable by imprisonment in the penitentiary, and persons under interdiction; persons who were estopped from claiming the right of suffrage by having abjured their allegiance to the United States Government or by having notoriously levied war against it, or by having adhered to its enemies; those who had held office, civil or military, for one year or more under the Confederacy; those who had registered themselves as enemies of the United States; those who had acted as leaders of guerrilla bands during the late rebellion; those who, in

the advocacy of treason, had written or published newspaper articles or preached sermons during the late rebellion; and those who had voted for and signed an ordinance of secession in any state. No person included in these exceptions should either vote or hold office until he had relieved himself by voluntarily writing and signing a certificate containing an acknowledgment that the late rebellion was morally and politically wrong, and that he regretted any aid and comfort he had given it. No person, however, who, prior to the 1st of January, 1868, had favored the execution of the Reconstruction acts, and had openly assisted the loyal men of the state in their efforts to restore Louisiana to her position in the Union, was to be held included among those disfranchised classes.

Pending the work of reconstruction, the state revenue fell far short of the expenditures. The state auditor informed General Hancock in December that, unless something were done, the wheels of government would stop, and that the present indebtedness of the state was such that, under the revenue laws, the debt could not be paid. The outstanding claims of the treasury at the end of 1867 were $1,313,000 in excess of the receipts. In view of the emergency, the general issued an order, not as rigidly respectful to the civil government (though in compliance with the wish of the government) as the tone of his order or proclamation announcing his assumption of the command might have led one to expect; but it was a case of necessity, no doubt; and to meet it he extended the force of a legislative act in regard to the finances to the year 1868, although it was limited in terms to the year 1867. This act of military legislation was accompanied by other regulations in regard to the collection and disbursement of the revenue. This order was complained of by the radicals on the ground that it was the enactment by the military of laws for a down-trodden and oppressed people; and a "respectful but solemn protest" to this effect was introduced in the convention in the form of resolutions, but it was laid on the table. Another ground of opposition was that the order was in the interest of the obnoxious state legislature which was known to be "hostile to a loyal reconstruction of the government." The State of Louisiana was re-admitted to representation by the act of Congress of June 22, 1868, upon the same conditions as those imposed in respect to the states of North Carolina, South Carolina, Alabama, and Florida.

The vote at the Presidential and congressional elections in Louisiana in November, 1868, presents quite a contrast to that at the ratification of the constitution and the election of state officers in April. In the state election in April, the Republicans had it all their own way, as has been stated. The constitution was ratified by a majority which is differently stated at from 12,000 to 17,000. Henry Clay Warmoth, Republican, was elected governor by above 26,000, over Talliaferro, Democrat. The legislature consisted of twenty Republican senators to sixteen Democrats, and fifty-six Republi-

can members of the house to forty-five Democrats — there being on joint ballot seventy-six Republicans and sixty-one Democrats. This is the statement of the *American Annual Encyclopædia*. The *Tribune Almanac* makes the Republican majority much greater — viz.: twenty-four senators and seventy-five representatives, or ninety-nine on joint ballot, against twelve Democratic senators and twenty-six representatives, or thirty-eight on joint ballot. But in November, the Democrats swept the state by overwhelming majorities, notwithstanding the candidacy of General Grant. He was beaten by Mr. Seymour, by a majority of 15,278 in a total vote of 71,100, according to the report of the state board of canvassers; but as this statement is based on the rejection of returns from sixteen parishes, it is far short of the whole truth. The *Tribune Almanac* gives unofficial returns from these parishes, and presents a total of 113,388 votes for President, of which General Grant received 33,263, and Mr. Seymour 80,225, showing a Democratic majority of 46,952.

These apparently sudden revolutions in public sentiment which swept over the South first in one direction and then in another, like the cyclones that from time to time devastate the western country, were peculiar to the era of reconstruction, and they indicate the degree of pressure, for the time, of the heavy hand of the military authority.

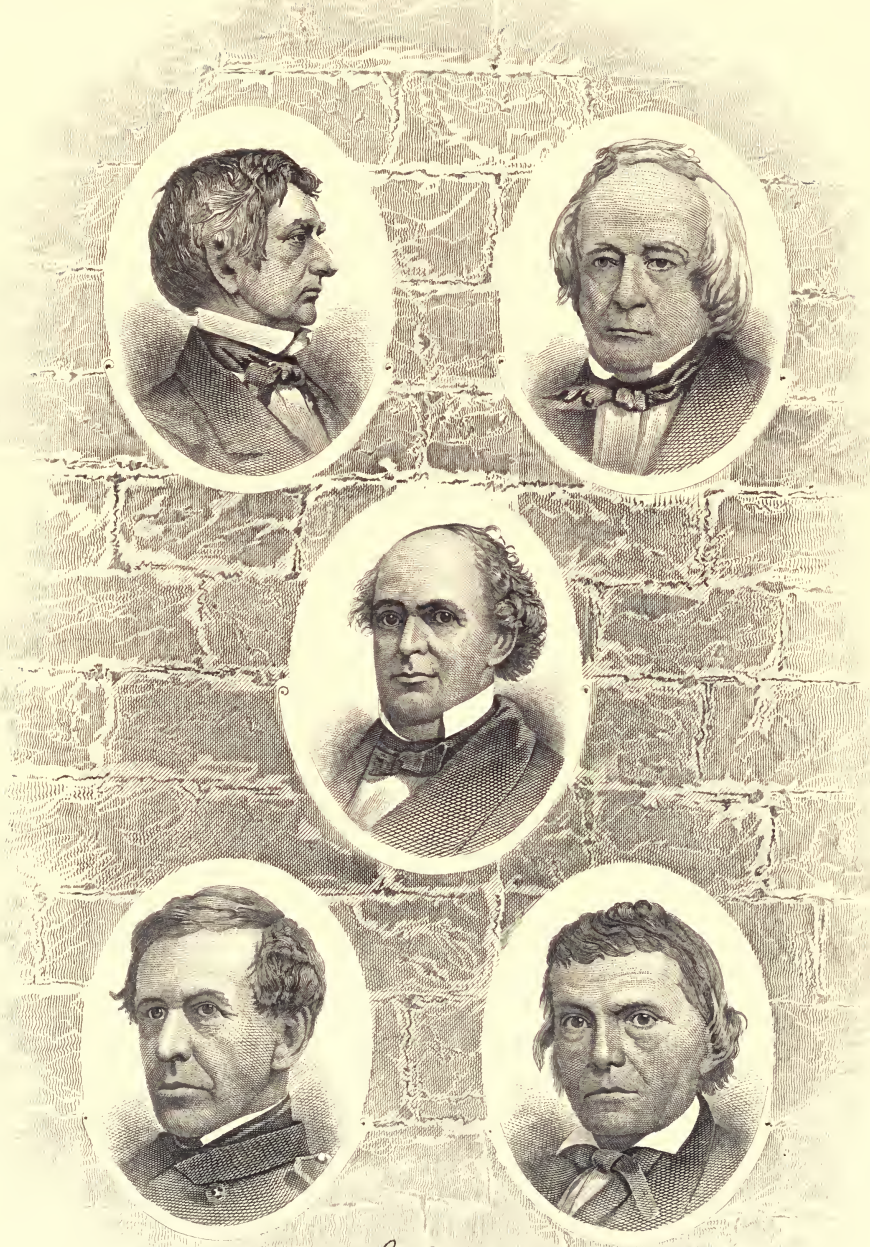
It has been stated that the returning board threw out the returns of the votes in several parishes; and there seems to have been good reason therefor. For instance, in the Parish of Bienville, where the colored population was 5,047 and the white 5,589, there was but one vote cast for General Grant, against 1,385 cast for Seymour. In Bosier Parish, where the colored population was 9,170 and the white 3,505, Grant got but one vote, and Seymour 1,635. In Caddo Parish, where the colored population was 15,799 and the white 5,913, Grant got but one vote and Seymour 2,895. In De Soto Parish, with a colored population of 9,855, St. Laundry Parish, with a colored population of 11,694, and several other parishes with large negro populations, Grant received no votes at all. In the twenty-four parishes of the state, with an aggregate colored population of 182,169 and an aggregate white population of 253,982, General Grant got but 3,701 votes, while Mr. Seymour got 58,373. And yet the fact is indisputable that fully nineteen-twentieths of the colored men were unequivocally and earnestly in favor of Grant, and that the whites were for Seymour in about the same proportion. The strange results here set forth are partially explained in the report of a committee of the House of Representatives constituted to investigate the condition of the South. The report says:

"The testimony shows that over two thousand persons were killed, wounded, and otherwise injured in Louisiana within a few weeks prior to the Presidential election in November, 1872; that half the state was overrun by violence; and that midnight raids, secret murders, and open riot kept

the people in constant terror until the Republicans surrendered all claims. . . . But the most remarkable case is that of St. Laundry, a planting parish on the river Teche. Here the Republicans had a registered majority of 1,071 votes. In the spring of 1868 they carried the parish by 678. In the fall they gave Grant no vote,— not one,— while the Democrats cast 4,787, the full vote of the parish, for Seymour and Blair. Here occurred one of the bloodiest riots on record, in which the Ku-Klux killed and wounded over two hundred Republicans, hunting and chasing them for two days and nights through fields and swamps. Thirteen captives were taken from the jail and shot. A pile of twenty-five dead bodies was found half-buried in the woods. Having conquered the Republicans and killed and driven off the white leaders, the Ku-Klux captured the masses, marked them with badges of red flannel, enrolled them in clubs, led them to the polls, made them vote the Democratic ticket, and then gave them certificates of the fact."

It is probable that the statement is a good deal exaggerated, especially as to the number killed; but the failure of the negroes to vote can be explained only on the theory that a reign of terror existed. The heavy majorities of the Republicans in the spring of 1868 were due to two causes: first, to the relatively small number of the white people who were allowed to register; and, secondly, to the presence of United States troops. The withdrawal of the troops and the cessation of martial law revealed the latent superiority of the whites. It then became apparent that the government which Congress had set up — a government carried on by the colored people and supported by the bayonet — could not stand when the bayonet was withdrawn. The enormous Democratic vote in the Presidential and congressional elections in November showed either that thousands of unregistered men were allowed to vote, or that the negroes were drafted into the service of the Democratic party and compelled to vote against their wishes.

The report of the House Committee of Elections in the contested election case of Hunt *vs.* Sheldon, gives an explanation of the falling off in the Republican vote. It tells of the social ostracism of the few white Republicans in the state; the threat of withdrawing employment from the Republican negroes; and the operations of the "Knights of the White Camellia," an armed and oath-bound society which embraced nearly all the Democrats in Louisiana, and which General Rousseau, who commanded the department, pronounced too formidable for his command to cope with, advising the Republican leaders, therefore, to abandon the campaign. It tells how Democratic clubs were formed into which colored men were urgently invited to enter, with the promise of receiving "protection papers," which would bring protection, lands, security, and peace; and how Democratic barbecues were held, at which food and drink were bountifully provided and public questions discussed by men of both colors, and where active young Democrats played the part of waiters, serving the colored people in preference to the whites.



DIPLOMATS & STATESMEN.

This was, to say the least, a blending of the *suaviter in modo* with the *fortiter in re*. It was, according to this report, only when these coercive and seductive methods failed to win over the colored men that the rioting and murdering began. It is due to Governor Warmoth to say that he attributed his inability to preserve the peace to the act of Congress which prohibited the organization of the militia. But nothing is more probable than that an exercise of the authority which Congress unconstitutionally stripped him of would have only aggravated the evil, for his reliance must have been on the colored men, and to arm that class for the purpose of keeping the whites in order would have provoked sanguinary conflicts in which the governor and his sable troops would have been badly worsted.

The legislature met at the beginning of the year 1869. Governor Warmoth's message to it was very conciliatory, expressing the hope that the storms of the past had died away forever. A social equality bill was passed, requiring all hotels and places of public entertainment and amusement to admit all persons, without regard to race or color. Also a school bill, which required that all schools, of whatever grade, depending on the public for support, should be open to all pupils, of whatever race. The legislature, at the same session, chartered two companies which were denounced as corrupt monopolies — the Ship Canal Company and the Slaughter House Company.

At the following session of the legislature so many financial schemes were introduced that a public meeting was held in New Orleans, in January, 1870, to protest against them. It was stated that the measures in question were certain to increase the burdens of the people, and to depreciate the bonds and ruin the credit of the state; that the city debt was $17,000,000, and the state debt $28,000,000, and that the latter would, if the schemes on foot were carried through the legislature, be increased to $54,000,000. The co-operation of Governor Warmoth was solicited, in efforts to arrest these corrupt schemes. His reply was to the effect that a great many members of the legislature were ignorant and easily influenced by lobbyists, and that the men of standing in the community ought to assist him in restraining them from running into the excesses complained of. He also reminded the property-holders and capitalists who took part in the public meeting that many of the bills which the legislature was charged with passing corruptly were for the aggrandizement of individuals and corporations representing their "very best people." Their bank presidents and the best people of New Orleans were, he said, "crowding the lobbies of the legislature, continually whispering into these men's ears, bribes." How was the state to be defended, he asked, against the interposition of these people who were potent in their influence in the community. It is apparent that Governor Warmoth understood the term "best people" to be synonymous with the term "richest people." He instanced the case of the five-million bond bill (to take up the city notes) which he had vetoed, which had been passed in

the house over his veto, through the lobbying and bribes of all the prominent brokers of the city, and which had been only defeated in the senate through his exposure of the fact that an order for $50,000 had been laid, as a bribe, on the desk of his own secretary. He also said that another senator of New Orleans had offered him a bribe of $50,000 and a share of profits for his signature to the Nicolson Pavement bill.

Grave charges of corruption were made against Governor Warmoth himself; but in all these transactions he appears on the side of an honest administration of state affairs. A bitter quarrel arose between him and the state auditor, G. M. Wickliffe, whom he accused of extortion and corruption. Fourteen indictments were found against Wickliffe, and the governor suspended him. This proceeding, however, was not sanctioned by the courts, and Wickliffe was temporarily restored to office. The governor then laid the charges against Wickliffe before the house of representatives, by which body he was impeached. He was tried before the senate as a high court of impeachment in 1870, and was convicted.

Notwithstanding the fact that the Democrats gave a cordial invitation to the colored people to co-operate with them on a liberal declaration of principles, the election in November, 1870, resulted in a solid Republican triumph. The candidates for auditor and treasurer had majorities of about twenty-five thousand; and the entire delegation to Congress was Republican. General Grant was President; and none but registered Democratic votes could be polled. Besides, no attempt at intimidation was made. The name of President Grant was sufficient to repress all irregular methods of electioneering on the part of the Democrats. At the same election, the people ratified two important amendments to the state constitution. One was the repeal of the ninety-ninth article, which disfranchised a large class of citizens. The other was a limitation of the state debt to $25,000,000. The repeal of the proscriptive clause gave the right of suffrage to all male citizens twenty-one years of age. Governor Warmoth, who had recommended the abrogation of that clause, congratulated the legislature and people upon its being expunged from the constitution.

The Republicans, however, quarreled among themselves; and the factions soon became more embittered against each other than against their common enemy, the Democrats. This quarrel led to a most extraordinary condition of things, in which Governor Warmoth and his friends were arrayed against the leading Federal officials: namely, Packard, the United States marshal, Casey, the collector of the port (a brother-in-law of President Grant), Lowell, the postmaster, and two deputy custom-house officers, named Herwig and Carter. There was a struggle for the control of the Republican state convention; but the Federal office-holders carried the day by having the convention meet in the United States court room, in the custom house, which was guarded by United States troops, and by some hundreds

of deputy United States marshals. Warmoth went there, in company with ninety-five other delegates, his adherents, and found, he said, "the main entrance and the gates closed, barred and bolted, and guarded by a large force of armed men, colored and white, mostly employés in the custom house and letter-carriers of the post-office, called deputy United States marshals." On the second floor of the building in which the court room was situated they were "confronted by a line of United States troops armed with muskets with bayonets fixed — some one hundred and ten men in all." They were refused admission to the room; and so Warmoth and his fellow-delegates retired, and held a convention of their own.

There was also a struggle over the office of president of the senate — the lieutenant-governor, Dunn, a colored man, having died in November, 1871. The governor, a few days after Dunn's death, summoned the senators to meet in extra session on the 6th of December, for the purpose of electing a presiding officer. A majority of the senators were of the governor's party, while a majority of the house belonged to the custom-house faction, and meditated an impeachment of Warmoth. As, in case of the governor's removal, the president of the senate would succeed him in the executive office, it was important to secure that office; and Warmoth managed, not without suspicion of purchasing at least one vote, to have his candidate, Pinchback, a colored man, chosen. A proceeding in the sixth circuit court revealed the fact that a tin box purporting to contain $15,000, had been deposited in the Louisiana Savings Bank, with a written agreement that the money was to be delivered to a certain Senator Lewis, in consideration of his voting for Pinchback. Lewis was, however, cheated out of his reward, the contents of the box having been delivered, without his knowledge, to one Dr. Southworth, another political adventurer of that era. There is little doubt that Governor Warmoth was cognizant of and a party to the bribery, as well as being a party to the further baseness of defrauding Lewis of the bribe.

A further bone of contention between the two factions was the speakership of the house. George W. Carter, an officer in the custom house, had been elected speaker at the session preceding that which opened on the 1st of January, 1872. On the second day of this latter session a resolution of confidence in him was passed by a vote of forty-nine to forty-five. But the next day the house refused to approve the journal, by a vote of forty-nine to forty-six. This was a test vote, and showed that the Carter party was in a minority. Great confusion followed. A motion to declare the speaker's chair vacant was made and declared out of order. Carter and his friends saw that they were in a minority; and Carter, it is asserted by the governor's friends, promised that, if the house would adjourn, he would resign the next day. The house did adjourn; but, instead of Carter resigning, at noon the next day the governor, lieutenant-governor, four senators, and eighteen members of the house, all opponents of the custom-house faction, were

arrested by United States deputy marshals, on writs issued by United States Commissioner Woolfley, who had been a clerk under Marshal Packard, on a charge of conspiracy to resist the execution of the laws of the United States. They were soon, however, released on bail. This proceeding, perfectly outrageous in its character, accomplished its purpose for the moment. The Warmoth members of the house were thrown into temporary confusion, and nearly all of them left the hall — their withdrawal leaving the house without a quorum. On the fourth day, with only fifty-one members present (claimed to be less than a quorum), the Carter party in a most summary manner unseated seven of the Warmoth men, giving their places to anti-Warmoth men. The Carterites were thus once more placed in the majority. As to the senate, it was the purpose of Packard, Casey, and their friends to prevent a quorum appearing; and so fifteen of the senators who belonged to that faction were secreted in the custom house for some time, and were then placed on board the United States revenue cutter, Wilderness, where they were kept from Monday night till the following Friday, being furnished with provisions, wine, and whiskey.

The legislature having, in this condition of things, adjourned over, Warmoth immediately, without giving notice to his enemies, issued a call for his legislature to meet the same day at 4.30 o'clock. The call, or proclamation, was kept a profound secret; and the legislature, Warmoth's portion of it, was in session before Carter's followers were made aware of it. This procedure was, of course, wholly illegal; but it was a less flagrant outrage upon constitutional liberty than the other faction had been guilty of. There being no quorum in the senate, the Warmoth senators adjourned. In the house, the Warmoth men mustered sixty-five members, a constitutional majority, and they proceeded at once to undo the work of the Carter-Packard faction. The office of speaker was declared vacant, and O. H. Brewster was elected to fill the vacancy. Carter was voted out of the speakership by a unanimous vote, and was then expelled from the house by a vote of forty-nine to five. The house then adjourned until the next day.

In the meantime, a large number of policemen were appointed to guard the Mechanics' Institute, which was used as the state capitol, and to protect the governor and party. The police were heavily armed. Carter attempted to enter the building, but the police, acting under orders, excluded him. He and his friends then attempted to organize as a house in another hall; but, failing to obtain a quorum, most of his friends joined the majority in the Mechanics' Institute.

Pending these anarchical proceedings, the administration at Washington, in deference to public sentiment, was constrained to order the commander of the Wilderness to "unload" — to borrow the expressive phrase of General Grant, used by him on another occasion. The cutter was accordingly brought to the city, and the recusant senators disembarked. They, how-

ever, refused to join the senate while there was an armed force around the capitol. Hatred of Warmoth gave them the sympathy of the people of New Orleans; and on the 20th, Carter was emboldened to issue a proclamation declaring his intention to take forcible possession of the state capitol, and inviting the citizens to join him. He accordingly raised several thousand men and took the field for the purpose of executing his threat; but the interposition of General Emory, the United States military commander, who had received orders from Washington to prevent a conflict, put a stop to the enterprise.

Under these depressing influences the spirit of the custom-house faction gave way, and the standard of rebellion against the state government was abandoned. On the same day, January 22, which was marked by the defeat or abandonment of Carter's military venture, the absent senators joined those of the Warmoth faction; and when it was declared, by a vote of seventeen to sixteen, that the election of Pinchback in December, 1871, at the extra session of the senate was legal and valid, some of the followers of Carter belonging to the house of representatives also joined that body, thus establishing an ample quorum, with a large Warmoth majority. The expulsion of Carter and the election of Brewster as speaker were promptly confirmed.

These extraordinary and exciting events, marking and growing out of the struggle between two reckless factions for the control of the state government and for the opportunities of plunder which such control could give, are set forth in great detail in the testimony taken by a select committee of the Federal House of Representatives, appointed under a resolution of the 15th of January, 1872, "to inquire into the origin and character of the difficulties which have arisen between the government and the officials of the State of Louisiana and the United States officials in said state." The committee consisted of Glenni W. Scofield, of Pennsylvania, George W. McCrary, of Wisconsin, H. Boardman Smith, of New-York, R. Milton Speer, of Georgia, and Stevenson Archer, of Maryland. The two first-named members concurred in making a report indicating that the parties to the controversy were actuated by none but honorable motives, and that their violations of law were merely the offspring of excessive zeal for liberty. They did not even hint that the Federal officials involved in the attempt to overthrow the state government deserved rebuke, if not removal; and they recommended no action on the part of Congress. Mr. H. Boardman Smith made a more elaborate report, directed principally to the vindication of the wisdom of Congress in passing the Reconstruction acts, and to the defense of the course pursued by the custom-house faction. But the report made by the two Democratic members of the committee, Messrs. Speer and Archer, was a fair and thorough analysis of the occurrences; and it is chiefly from it that the foregoing summary has been made up. It concluded thus: "The committee has no

power to relieve the people of Louisiana. Under a fair and honest election they will relieve themselves."

Warmoth was thoroughly unscrupulous, and still it is difficult to avoid a degree of sympathy with him in his struggle with the United States officials, whose equally unscrupulous and dishonorable experience was winked at and seconded by the national Administration. They were allowed to employ the United States Army in supporting one wing of the Republican party to defraud another of its equal rights in the convention; and the same favored faction was allowed to use the custom house and the revenue cutter for the execution of their unlawful schemes. Worst of all, this faction, headed by United States officers, by Packard, the United States marshal, by Casey, the collector of the customs, and by Lowell, the postmaster of New Orleans, was countenanced, and therefore aided and abetted, by the Administration at Washington in the treasonable act of arresting the governor of Louisiana.

The state constitution and acts passed by the legislature had conferred upon Warmoth, as governor, arbitrary power in the regulation of elections. It was he who appointed the registrars and poll-keepers, and was authorized to prohibit citizens from challenging voters. The constitution gave to registered voters the right to vote in any parish or in any part of a parish in the state, after a residence of ten days; and the effect of exemption from challenge was, therefore, equivalent to allowing anybody to vote who was willing to swear that he was a citizen of the state. Such voters could vote at as many places also as they could reach in the course of the two or more days during which the election continued. It is a well-known fact, that during periods of high political excitement there are many vicious characters in every community who are little scrupulous in the observance of oaths restrictive of suffrage. It is equally true that demagogues have little difficulty in persuading the illiterate and inconsiderate that it is their duty to vote as often as possible in support of what they are taught to believe a good cause. When laws become lawless contrivances to defeat the ends of justice, it is not surprising that the people resort to lawless expedients for securing their rights.

Warmoth, who was responsible for much of the lavish expenditure of the government, was still ambitious of being thought a reformer, while his opponents in the party, equally anxious to throw off the responsibility for plundering the people, joined the Democratic outcry against him. In his message of Jan. 1, 1872, he exposed a degree of legislative profligacy at the preceding session of sixty days, which exceeds anything in the annals of American state legislation, unless it may have been rivaled or surpassed by the carpet-baggers and field-hands of South Carolina, who have been so graphically described by Mr. Pike, in his *Prostrate State*. The Louisiana law-givers, in the brief period named, managed to expend in salaries, mile-

age, printing, stationery, and other comforts, the sum of $958,956. Governor Warmoth, in his message, comments very freely upon this extravagance, and speculates upon the ways in which the money went. He says that the expenses of the general assembly for salary for the sixty days' session, and for mileage, even at the enormous rate of twenty cents per mile each way, could not have been more than $100,000; and that the legitimate contingent expenses of both houses ought not to have exceeded $25,000. The excess, $830,956, was squandered, he said, in the payment of extra mileage, of fictitious *per diem* of salaries of an enormous corps of useless clerks, and of imaginary expenses of committees authorized to sit during the vacation and to travel throughout the state and into Texas, and in a hundred different ways. The enrollment committee of the house had over eighty clerks, most of whom were under pay during the whole session at eight dollars per day, while there were only one hundred and twenty bills passed, and while eight or ten clerks could have performed the whole work of the committee.

A comparison of the legislative expenses for 1872 with those of former years will illustrate the growth of corruption as a result of reconstruction. In 1857 the legislative expenditure was $100,000; in 1858, $85,000, and in 1859 and 1860, $100,000 each. In 1861, which was a year of revolution and extraordinary expenditure, the cost of legislation was $175,000. In 1864 it was $75,000; in 1865, $225,000; in 1866, $170,000, and in 1867, $200,000. In 1868 it leaped up to $250,000; in 1869, to $380,000; in 1870, to $593,000; in 1871, to $647,000, and in 1872, to $958,956. But this climax of legislative knavery cannot be fully appreciated except in association with the other fact that it was achieved by the party which claimed to be inspired by high moral ideas and by the most disinterested love of universal liberty, and whose special mission it was to elevate and educate the down-trodden negro race.

Governor Warmoth obtained an injunction restraining the auditor from the payment of the outstanding legislative warrants, on the ground that the vouchers on which they had been issued were fraudulent. An auditor was appointed by the court to investigate the matter, and the result was the discovery that, in many cases, the original amounts of the warrants had been fraudulently increased. The warrants issued in excess of the appropriations were ascertained to amount to about $240,000. Warrants amounting to $40,000 had been issued to committees and their clerks for mileage and expenses in traveling to and from distant places, when their journals showed that they had not been absent from the city. It was also shown that a regular system of forgery had been practiced by brokers dealing in these warrants. The figures written by the warrant clerk had been changed to larger ones. The names of the officers whose duty it was to sign warrants had

also been forged in many cases. It seems that none of the guilty parties were brought to justice.

The mutual charges made by Warmoth and Carter, the leaders of the two factions into which the Republicans of Louisiana were divided, will serve to illustrate the political morality of the times. Carter charged that Warmoth had come to Louisiana poor, and that he had made a "big fortune" and created a "big debt" for the state. Warmoth retorted that Carter had supported all the bills making large appropriations of state bonds, and that he got his *quid pro quo* in each and every case. The governor made similar charges against Charles W. Lowell and S. B. Packard, and against James B. Casey, of whom Warmoth said: "My friend Jim Casey is a clever fellow. He hasn't sense enough to be a bad fellow. A bad fellow must have some character. He hasn't any." Carter, the leader of the opposition to Warmoth, was equally free in the use of epithets. He said in a speech in February, 1872: "Louisiana is afflicted with worse laws and worse administrators thereof than can be found in ten states of the Union. Henry Clay Warmoth is the Boss Tweed of Louisiana, except that that amiable villain, with all his infamies, is a gentleman and a saint compared with the unscrupulous despot who fills the executive chair of this state."

It can scarcely be thought necessary to give details of the bribery and corruption of which the testimony taken by investigating committees affords super-abundant proof. Indeed, there is so much of it that one hardly knows where to begin or where to leave off the recital. Warmoth seems to have "covered his tracks," as the phrase is, better than others. He went to New Orleans penniless at the close of the war. He was a native of Illinois, entered the volunteer service in Missouri, and was dismissed by General Grant, on a charge of circulating exaggerated accounts of the Union losses at Vicksburg; but, this charge proving to be groundless, he was restored by Mr. Lincoln. He was in Texas for a short time, where he was indicted for embezzlement and appropriating government cotton; but, no prosecutor appearing, he was discharged. This was before he located in New Orleans, where he was elected to Congress under President Johnson's reconstruction policy. It is said that the voters at the election each contributed half a dollar to pay his expenses to Washington, which fact would imply that he had not been very successful in cotton speculations in Texas. When the committee reported in 1872, Warmoth was estimated to be worth from half a million to a million dollars. He testified that he had made more than $100,000 the first year. Casey, Packard, Carter, Lowell, Herwig, and all the prominent leaders were interested in procuring contracts or charters by which the state or the city was to be robbed and themselves enriched; and these corrupt advantages were procured by bribery. Lowell, the postmaster of New Orleans, was speaker of the state house of representatives in 1868, and voted for most of the obnoxious measures.

Senator Ray, a prominent supporter of the custom-house faction, got through an appropriation for a railroad from Vicksburg to Monroe amounting to $546,000, and he received $70,000 for revising and codifying the laws. He was deeply interested in the Louisiana Levee Company, was its champion in the senate, and called the previous question by which discussion was cut off. When the senate adjourned, he became president of the company, with a salary of $10,000 per annum. The act of incorporation authorized the building of fifteen million cubic yards of levees at the enormous price of sixty cents per cubic yard. Herwig, Casey's deputy, was also a senator; for it was a cardinal principle with carpet-baggers in all the reconstructed states to monopolize at least two offices. Herwig was interested in the "act to incorporate the New Orleans Shed Company," which occupied the levee front from Common to Poydras streets, and was invested with power to impose a tariff on commerce, like the Algerine pirates on the Barbary coast, or the noble German pirates on the Rhine. Casey, the collector, was also interested in this piratical scheme; but Mr. H. Boardman Smith, in his elaborate apology for the custom-house faction, put in the extenuating circumstances that some of the most "respectable and distinguished Democratic leaders of the state" were implicated in the same scheme. The fact that Casey had such "distinguished and respectable" Democratic confederates in the scheme of levying these contributions upon commerce, exonerated him from reproach in the estimation of Mr. Congressman Smith.

Carter was an apostatizing preacher, and ex-Confederate colonel, who, as a last resort, turned loyal patriot and became the leader of the anti-Warmoth faction in the assembly. He also had an interest in the Louisiana Levee Company, which was given him, according to Warmoth, in consideration of the services which he rendered to the bill as speaker. He also enjoyed as a sinecure the attorneyship of the New Orleans, Mobile and Texas Railroad Company, at a salary of $10,000 per annum. Warmoth says that the contract for his employment was made with Carter by the company after he had kept in his pocket for thirty or sixty days a bill which had passed the legislature almost unanimously, providing for subscription to two millions and a half of its stock in lieu of indorsement of its second mortgage bonds; and that immediately after this contract was made, by which he became the attorney of the company, the bill was signed by him. Carter was also the paid attorney of the New Orleans, Jackson and Great Northern Railroad Company, receiving $5,000 per annum.

Packard, the governor stated, caused to be prepared and introduced in the legislature the Nicolson Pavement bill, which would have cost about one and a quarter million of dollars. The Democratic members of the committee, Speer and Archer, stated that Casey was already proved to have been interested in, and the holder of, a corruption fund of $18,000, being part of a $50,000 fund raised by himself and others to bribe the legislature to pass a bill in which he was named as an incorporator.

Such were the tried and trusted friends and supporters in Louisiana of President Grant's administration.

At the general elections in November, 1872, for President, congressmen, legislature, and state officers, Pinchback, the colored lieutenant-governor, deserted Warmoth and formed a coalition or fusion with the custom-house faction. The election took place on the 4th of November, the day previous to the elections in the other states, and resulted in victory for each party, according to the decisions made by the two returning boards. According to the count of the Warmoth returning board, Greeley received 66,467 votes, and Grant 59,975. According to the custom-house or Kellogg board, Greeley received 57,029 votes, and Grant 71,663. McEnery, the Democratic or liberal candidate for governor, according to the custom-house count, received only 54,079 votes, while Kellogg received 72,890. But according to the Warmoth returning board, McEnery had a majority of 7,000. The custom-house board gave seats in the senate to twenty-eight Republicans and eight Democrats, or Fusionists, and gave seats in the house to seventy-seven Republicans and thirty-two Fusionists.

The Fusionists claimed that they had elected a majority of the legislature, and that body met in the city hall; the Mechanics' Institute, which was the temporary state capitol, being occupied by General Emory in the interest of Packard, Casey, and Kellogg. The Fusionist legislature petitioned the President to withdraw the military force which had taken possession of the state capitol for the purpose of awing and restraining the action of the governor, but the President refused to grant their petition. In other words, he assumed the responsibility for the overthrow of the state government by his subordinates.

The Packard legislature met in the capitol on the 9th of December, 1872, although the 1st of January was the day fixed in the constitution. Pinchback, the president of the senate, claimed to hold over in that capacity. The house, Lowell the postmaster presiding as speaker, immediately proceeded to impeach Governor Warmoth for "high crimes and misdemeanors," and thereupon Pinchback assumed the office of governor. Judge Elmore, one of the state judges, issued a writ forbidding Pinchback to take charge of the executive office; but a dispatch from United States Attorney-General Williams assured Pinchback that his authority was recognized by President Grant, and that the state would be protected from disorder and violence. It was not the habit of President Grant to wait upon "the law's delay," or upon the slow deliberations of courts and legislatures, when an order from headquarters or a rescript from the White House could dispose of the matter in a moment. Mr. Ogden, the attorney-general of the state, and Mr. McEnery, who claimed that he had been elected governor and held Governor Warmoth's certificate to that effect, petitioned President Grant to suspend his decision in the premises until the facts could be laid before him; but no attention was paid to their request.

A meeting of the people — the property-holders and tax-payers — appointed a delegation of one hundred of their number to proceed to Washington and lay their grievances before the President. This was on the 10th of December, 1872. Mr. McEnery telegraphed to the President, asking him to delay the recognition of either government until that committee could reach Washington and lay the case before him and Congress. To his request he received a reply, signed by Attorney-General Williams, in these words: "Your visit with one hundred citizens will be unavailing so far as the President is concerned. His decision is made and will not be changed, and the sooner it is acquiesced in, the sooner good order and peace will be restored."

The custom-house returning board had no official returns of the election, and had substituted therefor as the basis of its action, rumors and unauthenticated documents. It had counted as so many votes the affidavits of all persons, real or pretended, who declared that they had been wrongfully denied the privilege of registration. A government thus set up by fraud, by President Grant's civil officials, President Grant upheld by United States soldiers. The legislature was worthy of its origin. Of the 140 members of the two houses, say the citizens' committee, sixty-eight were of African descent, most of whom were totally illiterate; and from day to day during the session members were expelled or unseated, their places being given to contestants, until few of the Democratic opposition were left.

A public meeting of the tax-payers, irrespective of party, was held in New Orleans on the 3d of January, to express opposition to the Pinchback government, and to support that of McEnery. A committee which was appointed by the meeting issued an address calling upon the people of the city and state to sustain the legislature (meaning that returned by the Warmoth board) which was about to meet, by giving it their moral support. Pinchback issued a proclamation declaring that Governor Kellogg would be inaugurated, and that the Republican legislature would meet at the appointed time, but that "no pretended governor and no pretended general assembly" should convene and disturb the public peace.

Pinchback had reason to count on national aid in carrying out this declaration; for the President, only three weeks before, had given him the assurance that his government was recognized and would be sustained. But he was doomed to disappointment. The McEnery legislature was quietly organized, being surrounded and protected by the United States troops that were called out to preserve the peace between the rival parties without showing favor to either. The people also turned out in large force to defend the Democratic legislature; but, as Pinchback made no effort to enforce his proclamation, they returned quietly to their homes. It is improbable that General Emory would have failed to sustain Pinchback and to repress the McEnery party if he had not received instructions to that effect; and it is to be inferred, therefore, that President Grant found it necessary, or

prudent, to abandon his decision announced in the letter of Attorney-General Williams.

On the 14th of January, the two governors were inaugurated amid great excitement, Kellogg at the state capitol and McEnery at Lafayette Square. The Metropolitan police and the United States troops were called out for the preservation of peace and order.

On the same day, January 14th, the United States Senate adopted a resolution of inquiry into the condition of affairs in Louisiana, with instructions to report whether there were any existing state government there. The conclusion arrived at by the committee was that, unless the election were held to be absolutely void for frauds, McEnery and his associates in state offices, and the persons certified as members of the legislature by the De Feriet or Warmoth board, ought to be recognized as the legal government of the state; and that there seemed to be no escape from the alternative, that the McEnery government must be recognized by Congress, or that Congress must provide for a re-election. And the committee argued that under the clause of the Constitution which provides that the United States shall guarantee to every state a republican form of government, the power to order a new election existed in Congress. A bill to that effect was accordingly introduced, but it failed to become a law; and affairs in Louisiana were allowed to drift as they might, under the government of Kellogg and the legislature manufactured by the custom-house, or Pinchback, returning board.

Encouraged by the failure of Congress to pass an act authorizing a new election, President Grant returned to his first love, which was the custom-house governor and legislature. This government had enacted rigid laws for the collection of the taxes, more than two millions of which were said to be in arrears, and the militia was to be called out to aid the tax-gatherers. On the other hand, McEnery and his legislature were far from surrendering their pretensions, and on the 15th of February he issued a proclamation forbidding the payment of taxes to the Kellogg faction, and on the 27th he issued another proclamation ordering an enrollment of the militia. These movements of the Democratic governor were backed up by a mass-meeting held in New Orleans on the 1st of March. The whites had a large majority in that city, possessing nearly all its wealth and intelligence, so that the Kellogg movement could not have been maintained a single day but for the support received from Federal bayonets. This mass-meeting adopted resolutions sustaining McEnery and calling on the President to withdraw the troops, or else to re-establish martial law.

On the 6th of March, an effort was made by the people to seize the police stations, which was attended with considerable bloodshed, and was defeated by the Metropolitan police. McEnery disavowed this act of the mob as premature and unauthorized. This failure, however, emboldened the Kellogg party to retaliate by the capture, on the same day, of Odd Fel-

lows Hall, in which the McEnery legislature sat, and by the arrest of the members, who were marched out between files of soldiers, and taken to the guard-house.

McEnery appealed to General Emory, the commander of the Department of the Gulf, asking him whether or not this action of the Metropolitan police force met with his countenance and approval, and whether the United States forces under his command would support the armed occupation of Odd Fellows Hall. To this General Emory replied that the seizure had been made without his knowledge and without conference with him; but he inclosed a copy of a telegram received by him from Washington making it his duty to prevent any violence against the state government of Louisiana, which was that represented by Kellogg. He added that if the seizure of Odd Fellows Hall was the act of Governor Kellogg and of the government of the State of Louisiana, and if any violence were used to interfere with that act, he should most assuredly consider it his instructions to prevent any such violent interference. This correspondence was followed by the issue of an address to the people by McEnery, and by the temporary abandonment on his part of all effort to assert his authority.

But the establishment of the Kellogg government did not bring peace to the state. A revolt of the negroes in Grand Parish against the Kellogg government took place in the spring of the year 1873. The negroes captured the town of Colfax, which they held from the 1st to the 13th of April, killing in the meantime two colored men who refused to join them. At length a sheriff appointed by Kellogg raised a *posse* of 125 white men and besieged the negroes, 300 strong, in the court house, which they had fortified. The negroes consented to a parley, but shot two of the attacking party who were sent to them under a flag of truce. The court house was then fired, and many of the negroes were shot and killed while attempting to escape. A state of lawlessness existed in other parishes, originating in the attempt of Kellogg to enforce the collection of taxes, which were in arrears to the amount of $2,331,000. In his appeal to the commanding general for the assistance of the troops, he represented that the local authorities were utterly unable to keep the peace. The President issued a proclamation commanding the insurgents to disperse and return to their homes; and Mr. McEnery, in view of the hopelessness of the unequal contest, issued an address advising his friends to abstain from resisting the Federal Government.

But the most shocking instance of lawlessness and violence took place in Red River Parish, near the town of Coushatta. Kellogg's account of it is, that about the 28th of August, 1874, a body of persons belonging to a semi-military organization known as the White League of Louisiana, assembled in Coushatta for the purpose of compelling, by force of arms, the state officers of that parish to resign their positions. These officers, he says, were men of good character, most of them largely interested in planting and mer-

cantile pursuits, the only objection to them being that they were of Republican principles. The sheriff of the parish summoned a *posse comitatus* of citizens, white and colored, to assist him in protecting these officers. This *posse*, consisting of sixty-five men, was overruled by a superior force assembled from the adjacent parishes, and finally they surrendered themselves prisoners with the explicit guarantee that their lives would be spared, if the more prominent Republicans would agree to leave the parish, and if those holding office would resign their positions. These stipulations were complied with on the part of the Republican officials, who were then locked in jail for the night. These persons were Homer G. Twitchell, planter and tax-collector of Red River Parish, and deputy United States postmaster at Coushatta; Robert A. Deweese, supervisor of registration, De Soto Parish; Clark Holland, merchant and supervisor of registration, Red River Parish; W. T. Howell, parish attorney and United States counsel; Frank S. Edgerton, sheriff of Red River Parish, and M. E. Willis, merchant and justice of the peace. On the following morning, Sunday, the 30th of August, these persons were bound together, two and two, and conducted by an armed guard to the McFarland plantation, just across the parish line, where they were set upon and deliberately murdered in cold blood. Their bodies were buried where they fell, without inquest or any formality whatever.

The Democratic or Southern account of this shocking massacre is to the effect that a band of negroes had shot at a white man and then resisted an attempt to arrest them; that one of the white men who was of the party was shot and killed by the negroes; that the next day Homer Twitchell and two negroes were charged with having killed two white men; that this caused the whites to turn out in force and capture the persons before named. It is also alleged that these persons were, by their own request, started to Shreveport under a guard of seventeen men, and that they were intercepted and shot by a band of unknown men, the six negroes being set at liberty. There can be no doubt, however, about the main facts, which may be set down as among the horrible consequences which ought to have been anticipated as likely to result from the attempt to govern a free people by a pack of knavish adventurers from abroad, under the patronage of the Federal Government and sustained by Federal bayonets.

The utter weakness and inability of the Kellogg government to maintain its assumed authority was shown on the 14th of September, 1874. A mass meeting was held that day at the Clay statue, in Canal Street, New Orleans, for the purpose of protesting against the Kellogg administration, and especially against a seizure of arms that had been recently made. This meeting adopted resolutions calling on Kellogg to abdicate, and appointing a committee to wait upon him and present the request of the people. This committee called at the executive office for the purpose of laying the resolutions before the governor, but did not obtain an interview with him. It

received an answer, however, through one of the governor's staff declining to receive any communication from the committee, on the ground of there being several large bodies of armed men in different parts of the city, whose presence was a menace to the government; but saying that, should the people assemble peaceably without menace, he would deem it one of his highest duties to receive any communication from them or to entertain any petition addressed to the government. The committee in reply denied that there were any armed men in the city to their knowledge. They declared that they had come on a mission of peace, and that if the governor acceded to their proposition of abdication, the people of Louisiana would be pacified, and violence and bloodshed prevented.

When the report of the committee was made to the public meeting, it was followed by an appeal to arms with the avowed purpose of driving Kellogg from power. Mr. McEnery was absent from the city, and Mr. Penn, who had run on the same ticket with him for lieutenant-governor, stepped forward as the acting governor and issued a proclamation calling out the militia, "without regard to color or previous condition." Mr. Frederick Ogden was appointed "provisional general of the Louisiana state militia," and was ordered to assume command at once and organize the militia into companies, regiments, and battalions. By three o'clock of the same day a large number of armed men had mustered at the rendezvous on Poydras Street. Here they fortified themselves by barricading all the neighboring streets. There were very few United States troops in New Orleans at that time, and Governor Kellogg's chief reliance was the Metropolitan police force, which was well-armed, had some artillery, and was commanded by Generals Longstreet and Badger. About four o'clock the opposing forces encountered each other on Canal Street, near the river, and after a brief but bloody struggle, the police were completely routed with a loss of fourteen killed and between twenty and forty wounded. The loss of the insurgents was twelve killed and thirteen wounded, several of the latter mortally. Next morning the police laid down their arms and the state house was surrendered to the militia under Ogden. Kellogg took refuge in the custom house, while the whole property of the state and city was taken possession of by the insurgents. So the revolution was complete. The *coup d'état* was executed with a skill worthy of Frenchmen. The armory and arsenals, the police stations, and fire-alarm telegraphs, with the whole machinery of the state and city governments, fell into the hands of the acting governor, Penn, and if it had not been for the intervention of the President, the government of Kellogg and his legislature would have gone down forever without leaving a ripple on the surface.

Mr. Penn sent a dispatch to President Grant, briefly informing him of what had been done and the reasons for it, and declaring the unswerving loyalty of the people. All he asked for was that the President should

"withhold any aid or protection from our enemies and the enemies of republican rights and of the peace and liberty of the people."

Kellogg also sent on his version of the affair to the President, who responded promptly and energetically in a proclamation dated September 15, in which he commanded the "turbulent and disorderly persons" to disperse and retire peacefully to their respective homes within five days, and to submit themselves thereafter to the laws and constituted authorities of the state.

Thus were the people of Louisiana again put under the yoke which Senators Carpenter, Logan, Alcorn, and Anthony declared to have been originally imposed by fraud and violence — the violence being furnished by President Grant. The President made good his proclamation by sending troops and men-of-war to New Orleans to enforce it. General Emory was instructed to take possession of the state property and turn it over to Kellogg; to maintain the peace; and, under no circumstances, to recognize Penn's government.

On the 17th, the latter surrendered, under protest, to General Emory, who, instead of placing Kellogg in control of affairs, appointed Colonel Brooke military governor of New Orleans. This act was disapproved by the President. But it turned out that Kellogg was in no hurry to resume the functions of an office the duties of which he was conscious of being unable to execute without the support of Federal bayonets. General Emory explained to President Grant that he had "placed Governor Brooke in command of the city as well as in command of the troops. Otherwise there would have been anarchy. Governor Kellogg," he said, "did not call, and has not yet called, on me for support to re-establish the state government. His chief of police was shot down, and the next in command also; and the whole force utterly dispersed and hidden away out of sight. For one of them to stand on his beat would have been certain destruction, and even now the state authorities represented by Governor Kellogg have asked to defer taking charge for the present."

It was a humiliating confession of incapacity to govern, when the head of the state feared to take the reins in hand, although supported by the United States army and navy. But Kellogg's experience had taught him to regard the part of puppet even as a dangerous and undesirable distinction, and it was not until the 19th that he was encouraged to emerge from his hiding-place in the custom house under the panoply of the United States flag, by the assurance from General Emory that he would be furnished the necessary military support to re-establish the state government.

The city was policed by the military during these days of restoration to carpet-bag rule; and when the city police had been reorganized and had resumed their duties, they were still for a time protected, as General Emory stated, by troops stationed at various points.

The results of the election in November, 1874, are so well and clearly stated by the sub-committee of the United States House of Representatives, of which Mr. Hoar was chairman, that nothing better can be done than to present its conclusions, and its reasons for them. This sub-committee, composed of Messrs. Charles Foster, of Ohio, Wm. Walter Phelps, of New Jersey, and Clarkson N. Potter, of New-York, two Republicans and one Democrat, spent eight days in New Orleans in taking testimony. They agreed in their report on the subject. This fact, that three highly intelligent men, representing the two great parties, after thorough investigation, arrived at a common conclusion, furnishes the best evidence of its correctness. They examined ninety-five witnesses and collected a large amount of documentary evidence. They expressed themselves constrained to declare that the action of the returning board, on the whole, was arbitrary, unjust, and illegal, and that that arbitrary, unjust, and illegal action alone prevented the return of a majority of conservative members to the lower house.

As illustrative of the character of the Kellogg administration, and showing that it was made up of unprincipled adventurers whose sole business in Louisiana was to enrich themselves by robbing the people, they state that no witnesses had succeeded in naming, in any rural parish, five white Republicans who supported the Kellogg government who were not themselves office-holders or related to or employed by office-holders. They state that in New Orleans, houses and stores were to be had for the taxes; that in Natchitoches Parish the taxation reached about eight per centum on the assessed value of the property; that in many parishes all the white Republicans and all the office-holders belonged to a single family; and that the securities of the state had fallen in two years from seventy or eighty per centum to twenty-five, and of the city of New Orleans from eighty or ninety per centum to thirty or forty — the fall in bank shares, railroad shares, and stock of cities and other corporations being in a corresponding degree. The committee accounts, to some extent, for the Republican defeat in the following statement:

"But the reduction of wages, the non-fulfillment of personal or political pledges, the malfeasance of home and local officials, disputes among the leading colored persons in other localities, the loss and embezzlement in some cases of the school funds, and the failure of the Freedmen's Bank — all combined to divide the views of the colored voters during the late campaign. An effort was accordingly made by the conservatives to acquire a part of the negro vote. With that view, it was sought in many quarters to propitiate them."

Another committee of Congress was sent down to New Orleans, composed of Messrs. George F. Hoar, of Massachusetts, William A. Wheeler, of New-York, William P. Frye, of Maine, and Samuel S. Marshall, of Illinois, — the last named being the only Democrat. The object of this committee was to effect a compromise between the parties. This was accom-

plished on the basis of allowing Kellogg to retain the office of governor, while the Democratic members who were elected in Rapides, Iberia, and the other parishes which had been rejected by the returning board, were allowed to take their seats in the legislature. This gave a decided majority to the Democrats or conservatives — the native whites who paid the taxes, and who had been the victims of Republican robbery. This class has ever since retained the ascendency in the control of the state affairs. The disgraceful scramble and compromise of two years later, over the Presidential question, in which the Republicans were "counted in" upon the national elections, and "counted out" upon the state election, must be relegated to the province of general history.

The public debt and "liabilities" of Louisiana, at different periods, have been as follows — the "liabilities" being on account of indorsement of railroad bonds, or legislative agreements to lend the state bonds to railroads:

Jan. 1, 1861, ...	$10,099,074
Jan. 1, 1868, ...	14,347,051
June 1, 1870, ...	41,194,473
Excess of expenditures over receipts up to 1871, . .	9,345,733
Jan. 1, 1873, ...	45,183,907

The contingent liabilities in 1873 amounted to $21,090,500, but the bonds had not been issued, and a constitutional amendment of 1874 prohibited their issue. On the 1st of January, 1875, the bonds and floating debt amounted to $23,336,660.

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The grand debates before the people from the close of the war until the election of Samuel J. Tilden, and especially about the time when Andrew Johnson was in collision with the Republican Senators and congressmen, raised high and far above all others the question of the restoration of all the states lately in insurrection to their complete Federal relations. Was it not Henry Ward Beecher who gave, in one pregnant sentence, the philosophy of that contest? "Our theory of government," said he, "has no place for a state except in the Union." In his opinion it is justly taken for granted that the duties and responsibilities of a state in Federal relations tend to its political health, and to that of the whole nation. Territories had been brought in with haste, even before the fulfillment of prescribed conditions, as though it were dangerous to leave them outside of the great body politic. Mr. Beecher believed that if the Senators and Representatives from Tennessee had been admitted at once on the assembling of Congress, and if, in succession, as qualified, Arkansas, Georgia, Alabama, North Carolina, and Virginia had been reinstated, the public mind of the South would have been far more healthy than it was in 1866, and that states lingering on probation to the last would have been under a more salutary influence than though a dozen

armies had watched over them. Was not this true philosophy? Did not this minister of grace advise a healthful regimen in the progress of restoration? Was not the opposite of his thought improgressive? Did it not operate to exclude great masses of the people, unsettled before and growing more irritable? Did it not substitute military for local government? Was not the government at Washington called upon to interfere in one and another difficulty? Was not the method of interposition which was pursued in 1866, and for many years afterwards — was it not, as shown by events, pursued inaptly and sometimes with great injustice? Did not this eminent sage speak more wisely, and from a higher than a mere political plane, when he said that our government was adapted to its own proper functions, that it was in its nature utterly devoid of those habits of iniquity which belong to a centralized government, and that it was in accord with the essential quality of freedom to remit authority in local affairs to the states?

He spoke with discernment when he said that the Federal Government was unfit to exercise minor police and local government, and would inevitably blunder in the attempt. Indignantly he asked whether the Nation was to remain dismembered to serve the ends of parties? He was not afraid, at the beginning of our last decade, to admit that the power, even if it should pass into the hands of a party made up of Southern men, and of the hitherto dishonored and misled Democracy of the North, could not be used just as they pleased; for the war had changed not alone institutions but ideas. The whole country had advanced. Public sentiment had been exalted far beyond what it had been at any former period. A new party would, like a river, of necessity find a course determined by the existing slopes and forms of the continent.

Therefore, with wonder, and shame, and scorn he heard the fear expressed by a few that the South, if once more in adjustment with the Federal Government, would rule the Nation. Was not the North rich? Never so rich. The South poor? Never so poor. Was not the population of the North double that of the South? Was not the industry of the North in diversity, in forwardness and productiveness, and in all the machinery and education required for manufactures, half a century in advance of the South? Were there not churches in the North crowning every hill, and schools swarming in every neighborhood? The South had but scattering lights at long distances, like light-houses twinkling along the edge of a continent of darkness.

In the presence of such a contrast, he exclaimed, "How mean and craven is the fear that the South will rule the policy of the land!" Conceding that the South would have a most important restraining influence, he saw with clearness that if it should rise at once to the control of the government it would be because of refusal by the North, demoralized by prosperity and besotted by groveling interests, to discharge its share of political duty.

In such case, he said, the South would not only control the government, but ought to control it. This was prophecy. Since it was made, a new evangel has appeared upon the very mountain-tops and in the valleys of our land. We are united. The great chasm which the rebellion made has been nearly filled up. It grows narrower. There no longer arise out of it the dread spectres and threatening shapes which these pictures of reconstruction in the preceding chapters have portrayed.

At length, and after the long night of reconstruction affliction, there rose a day-star in the hearts of the prostrate states. Then came serene day itself, and as its luminary turned toward its setting, its gleams of comfort upon the Southern land fell cool and sweet, the shadows lengthened, pointing to the dawn which 1884 gave.

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The condition of affairs in Texas at the beginning of the year 1867 was as bad as possible, if the reports of the army officers may be relied on. General Sheridan, as commander of the Department of the Gulf, in his report to General Grant, dated New Orleans, Jan. 25, 1867, stated that the condition of the freedmen and Union men in remote parts of Texas was truly horrible; and that the freedmen were shot and Union men were persecuted if they had the temerity to express their opinions. General Grant transmitted this report to the Secretary of War. He recommended that martial law be declared. He deplored its necessity.

The financial affairs of the state were not, however, badly managed. The revenue collected during eleven and one-half months, beginning Aug. 14, 1866, and ending July 31, 1867, was $626,518. The expenditures during the same period were $625,151.

It has been stated that Texas was a part of the Fifth military district. Of this district General Sheridan was the commander. His headquarters were at New Orleans. Gen. Charles Griffin was placed in command of the subdistrict of Texas. His headquarters were at Galveston. On the 15th of April, 1867, General Griffin issued an order announcing that, under the acts of Congress of March 2d and March 23d, he was required to protect all persons in their rights of person and property; to suppress insurrection, disorder and violence; and to punish, or cause to be punished, all disturbers of the public peace and other criminals. Jurisdiction of offenses, he said, might be taken by the local civil authorities, but where it was evident that the tribunals would not impartially try cases brought before them, the immediate military commander was to arrest, or cause to be arrested, the offenders and criminals, hold them in confinement, and present their cases in writing to headquarters, with a view to have the parties brought before, and tried by, a military commission.

General Griffin also announced that he was empowered to fill vacancies in

executive offices, and that no elections would be allowed under the existing government of the state. In June, the policemen of Galveston were removed. The general sent a list of twenty-five names to the mayor, with authority to select his policemen from it. Five of the persons named were colored. As an officer of the Freedmen's Bureau, the commander of the district issued an order in July declaring that accounts against freedmen would not be allowed to constitute a lien upon their portion of the crop.. This must be regarded as a legislative order. General Griffin thus assumed the office of law-giver as well as the executive and judicial offices. The wisdom of this military enactment, however, may well be doubted. The effect of it must have been to make the planters hesitate about giving credit to their employés, even for necessaries. The position of a state judge under this military supervision was not an enviable one. He had taken an oath to hear and determine causes in conformity with the laws of the state, while he was required by the military commander to conform his rulings to the recent acts of Congress, or the military understanding of those acts.

On the 30th of July, General Sheridan issued an order removing J. W. Throckmorton as governor of Texas. Governor Throckmorton had been a severely tried Union man. He was and is among the manliest of men; but he was an impediment to the foolish reconstruction of the state. Elisha M. Pease was appointed in his place. Soon afterwards Edward Dougherty, judge of the twelfth judicial district, was removed, and Edward Basse appointed in his place. The charge against Dougherty was that he denied the supremacy of the laws of Congress. He said that he would not obey them when they conflicted with the laws of Texas. This was the old nullification idea. His refusal ought to have been based on the unconstitutionality of the laws. These removals were followed by others, including the comptroller, the treasurer, the attorney-general, and the commissioner of the state general land office.

General Sheridan was himself removed from the command of the Fifth district on the 29th of August. Then General Hancock was appointed to succeed him. This was a grand and patriotic relief. It is beyond praise. In his report of operations while in command of the district, General Sheridan had said that the difficult situation in which he had been placed had been rendered still more difficult by the apparently open sympathy of the President with the functionaries who had been removed. He added: "I have been charged by the highest authority of the Nation with being tyrannical and a partisan; and I am not afraid to say, when such charges are made against me, that I feel in my heart they are untruthful." These were bold words for an army officer to utter about the President of the United States. The gallant army officer had Congress at his back; and he had as much effrontery in civil affairs as of well-won fame in military conduct. General Hancock had also military fame, but he had had a different civil education.

The registration of voters under the Reconstruction act resulted in giving 59,633 white voters and 49,497 colored voters. The conservatives had in their state convention advised by resolution, that all white men who were qualified should register and vote against a convention. Their great object was to defeat negro suffrage. In this hope they were disappointed. Of the 54,388 votes that were polled on the question of calling a convention, 43,141 were for it, and only 11,246 against it. The convention consisted of ninety members, of whom nine were colored. About the same number of whites were Democrats, all the others being Republicans. But the Republicans were soon divided into conservatives and radicals. Andrew J. Hamilton, President Johnson's provisional governor, was at the head of the conservatives. His brother, Morgan Hamilton, was at the head of the radicals. E. J. Davis was elected president of the convention. Provisional Governor Pease volunteered a message to the convention, suggesting certain features of the proposed constitution. Among these was a declaration that the act of secession was void *ab initio*. One would naturally suppose that this suggestion would have been adopted almost without debate in a body composed of eighty Republicans and only ten secession Democrats; but yet, after a protracted discussion, it was rejected. In the North Carolina convention of 1865, which was held under old Whig auspices, and without there being a Republican in the body, this identical declaration — that the act of secession was void *ab initio* — was adopted as an ordinance, and it was ratified by a popular majority of over twenty thousand. But the old Whigs of North Carolina had been schooled for generations in the principles of the Constitution. The neophyte Republicans of Texas were only whitewashed, or blackwashed, secessionists, who were willing to take on any color for the sake of office.

Governor Pease also called the attention of the convention to the prevalence of crime in the state. He declared that it was never before so formidable. He stated that organized bands of lawless men were committing murders and violations of law, and were disturbing the peace of the country. The convention appointed a special committee to investigate the subject. That committee made a unanimous report. It stated its information, which had been obtained from the records of the state department and of the Freedmen's Bureau, as well as from the sworn statements of individuals. Excluding from its statistics cases of assault with intent to kill, rapes, robberies, whippings of freedmen, and other outrages, and confining its inquiries to homicides committed between the close of the war and the 1st of June, 1868, the frightful summary was: Total number of whites killed, 470; total number of freedmen killed, 429; number of persons killed whose race was unknown, forty; — making a grand total of 939 homicides. There were 460 whites and 373 freedmen, total 833, killed by whites, and ten whites and

forty-eight freedmen, total fifty-eight, killed by freedmen; and forty-eight killed by parties whose race was unknown.

In view of the fact that eighty of the ninety members composing the convention were Republicans, the following statement of the committee must be regarded as extraordinary: "There is absolute freedom of speech in very few localities in Texas. Union men dare not generally avow their political convictions. In many places they can hold public meetings only when supported by troops or armed men; and in many others they dare not hold them at all. The dominant rebel element will not tolerate free discussion." It must be regarded as remarkable that an oppressed and brow-beaten party, to whom free discussion was not allowed, could yet carry the election by ten to one against their oppressors! There were ten thousand more whites than colored men registered. Under such circumstances, one would naturally have expected the whites, or Democrats, to defeat the convention project. At the same time, they could have elected a majority of the delegates. They had resolved, in their state convention, to accomplish this result; but, in spite of the terrorism which they are said to have exercised, they polled only about one-fourth as many votes against the convention as were polled for it, and they elected only nine delegates out of the ninety.

The constitution adopted by the convention in December, 1868, was liberal. It made suffrage universal. It contained no proscriptive clause on account of secession and rebellion. In the clauses providing for general education there was no requirement that the two races should attend the same schools, but, on the contrary, the legislature was authorized to establish a complete system of education adapted to the circumstances and wants of the people of the state. The Bill of Rights repudiated nullification and secession as heresies. It declared the Constitution of the United States to be the supreme law of the land. It also recognized the equality of all persons before the law. It forbade the importation of persons under the name of coolies. It declared that neither slavery nor involuntary servitude should ever exist in the state.

The state constitution which was subsequently adopted in 1876, substituted for these clauses the following: "Texas is a free and independent state, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government unimpaired to all the states." The clauses in the constitution of 1868 which asserted the equality of all men before the law and declared that slavery should never exist in the state, were rejected or thrust out of the new constitution. It is true that the right of suffrage was secured to all, and that the rights of citizens were affirmed in general terms, and therefore were logically assured to all citizens. But it is also true that slavery was not recognized in any of the constitutions of the

original thirteen states. Texas, as a member of the American Union, cannot re-establish slavery, but there is nothing in the state constitution to prevent her doing so if ante-bellum precedents are to be followed.

The constitution of 1868 was adopted on the 30th of November, 1869, by a vote of 72,395 for it, and of only 4,928 against it. At the same election Edmund J. Davis, the radical Republican candidate, was elected governor over Andrew J. Hamilton, the conservative Republican candidate, by a majority of 783 in a total vote of 79,338. The Democratic candidate for the governorship, Mr. Stewart, received only 445 votes. The legislature was Republican in both branches — seventeen radicals and thirteen conservatives in the senate, and fifty radicals and forty conservatives in the house.

The radical wing of the Republican party made strenuous efforts to accomplish the disfranchisement of a large portion of the whites, but in this they were defeated by the conservative wing of the party. Gen. J. J. Reynolds, the commander of the district, gave his hearty co-operation to the radicals, and, laying aside the character of an impartial military commander or governor, and departing from his simple duty, which was to preserve the peace and order of society while the people were engaged in framing a constitution, he became an active partisan and the leader of the most ultra of the two Republican factions. On September 4, 1869, he wrote a long letter to General Grant, giving his ideas upon the political situation in Texas. In this letter he arraigns Mr. A. J. Hamilton on the charge of having conspired with the Democrats to defeat the radical wing of the party. He states many facts as conclusive proof of the charge. Among the very unpopular schemes of the radicals was the division of the state. This found few friends.

When it is considered that the whites, nearly all of them anti-Republicans, constituted a large majority of the voters, and that the Republicans were nearly equally divided into two factions, it must be regarded as remarkable that the radical wing of the Republicans should have won the day in the elections. Such a strange result can only be explained by the fact that the military commander, with the army and President Grant at his back, gave his powerful support to the triumphant faction.

Although under the new constitution, all male citizens over twenty-one years of age, excepting idiots, the insane, and convicted felons, were declared to be voters, all the classes that were excluded by act of Congress from voting for delegates to the convention were also excluded by order of General Reynolds from voting for governor, state officials, legislature, and congressmen. By this fraudulent arrangement nearly thirty thousand Texans were denied their constitutional rights. There was, therefore, no valid election. The person claiming to be elected governor was not the governor. The pretended legislature was not a legislature. The pretended congressmen were not entitled to seats in the House of Representatives.

The legislature thus chosen met on the 3d of February, 1870. It elected J. W. Flanagan, radical Republican, to fill the term in the United States Senate which would expire on the 3d of March, 1875. Mr. Flanagan is noted as an outspoken spoilsman. It elected Morgan C. Hamilton for the full senatorial term, to commence March 4, 1871. But the next session of the same body, which met at the beginning of the year 1871, proceeded to hold another election to fill the full senatorial term, on the ground that the election of M. C. Hamilton at the former session was illegal — that not being the session next preceding the vacancy, which the act of Congress required. This constitutional after-thought, as the result showed, proceeded from the headquarters of the Fifth military district. Gen. J. J. Reynolds, who had given such material assistance to the radical faction both in Washington and in Texas, was chosen in place of Hamilton; but the United States Senate rejected his claim. It seated Hamilton.

The state was re-admitted to representation in Congress on the 30th of March, 1870, by the act of Congress approved on that day, upon the same terms as those prescribed for the states of Virginia and Mississippi.

The following statement in regard to the public debt of Texas is taken from the Poland report of 1872: In 1860, there was no public debt; in 1861, the debt was $328,866; the Confederate debt was $362,866; in 1871, October 1st, it was $454,887; the floating debt was $917,878; and the prospective liabilities were $11,500,000.

According to the minority report of the same committee, quoting the comptroller's report, the debt was not less than three millions. The debt and liabilities were stated at seventeen millions. The taxation imposed in 1871 was stated by the tax-payers' convention at $5,361,000. In 1875, the bonded and floating debt was stated on official authority to be $4,721,914, besides claims on the state, of doubtful validity, amounting to $829,687. As the Democrats, or white people, of Texas had at that time, 1872, come permanently into power, the work of reconstruction in that state may be considered as having then come to an end.

CHAPTER XXXII.

IMPEACHMENT OF ANDREW JOHNSON.

SPRING OF 1865 — SURRENDER AT APPOMATTOX — SECOND INAUGURATION OF PRESIDENT LINCOLN — SCENE IN FORD'S THEATRE — THE ASSASSINATION — JOHNSON'S ACCESSION — PRELIMINARIES TO IMPEACHMENT — GROUNDS FOR THE IMPEACHMENT — MAJORITY REPORT OF JUDICIARY COMMITTEE — PRETEXTS FOR IMPEACHMENT — DISMISSAL OF STANTON — ALLEGED CONSPIRACY BETWEEN GEN. LORENZO THOMAS AND THE PRESIDENT — IS "SWINGING ROUND THE CIRCLE" A MISDEMEANOR? — THE SENATE AS A COURT — INSTANCES OF IMPEACHMENT — SPLENDID ARRAY OF COUNSEL — ATTORNEY-GENERAL STANBERY — THE EXCITEMENT AND VOTE — MINOR HISTORY OF THE TRIAL — DOUBTFUL SENATORS — MR. WARDEN'S RECITAL — SENATOR GRIMES AND PRESIDENT JOHNSON — MEET WITH REVERDY JOHNSON — SENATOR HENDERSON'S DOUBTFUL VOTE — THE AUTHOR'S PART — DAY BREAKS FOR THE PRESIDENT.

IT is two o'clock in the afternoon of Palm Sunday on the 9th of April, 1865, that the two great generals of the respective armies which have been confronting each other for four years meet in the parlor of William McLean, at Appomattox Court House. General Grant proposes in the form of a military note the terms of surrender. They are discussed and settled. General Lee returns a formal answer. The rolls of officers and men are to be made in duplicate. The officers are to give their parole not to take up arms against the government of the United States until properly exchanged. Each company or regimental commander is to sign a like parole for the men of his command. The arms and property are to be parked and stacked, and transferred to the officers appointed to receive them. The side-arms of the officers, and their private horses and baggage are not embraced in this stipulation. The surrender is made. Then the men return home. They are not to be disturbed by the United States authorities so long as they observe their parole and the laws in force where they reside.

A pathetic account is given by an eye-witness of the farewell between General Lee and the weather-beaten officers whom he had commanded through the long and weary years of the war. As to the silent, poignant

parting of these veterans, the statements cannot be exaggerated. It was beyond all description beautiful, touching, sympathetic, and chivalric. Much apocryphal writing has been published, however, about the capture of ex-President Davis with a few friends, near the village of Erwinsville, by General Wilson's cavalry on the 10th of May. Much discussion also was had at the time about his imprisonment in Fortress Monroe. There he was kept in confinement until May, 1867. We know what followed. He was taken from this bastile to be tried on the charge of treason. Such men as Charles O'Conor and Horace Greeley were willing to be his bondsmen and his advisors. For a year and a half the cause remained upon the docket. It was finally dismissed.

The Presidential election of 1864 was a foregone conclusion; not because the Democratic candidates, General McClellan and George H. Pendleton, were not representatives of the best thought of the peace-loving Union devotees; but because the Confederacy was on the eve of a collapse. The downfall of the Confederacy was presaged. Mr. Lincoln was chosen for a second term. Andrew Johnson was elected in the place of Hannibal Hamlin. The political agitation through the country, however, did not cease.

On the 4th of March, 1865, President Lincoln was again inaugurated. The Confederacy did collapse within a month. After the evacuation of Richmond, the President visits that city. He does his best with the authorities for reconciliation. He returns to Washington. On the evening of the 14th of April, 1865, he attends Ford's Theatre, on Tenth Street in Washington, with his wife and a party of friends. The play is drawing toward the fifth act, when an actor named John Wilkes Booth dashes into the President's box, levels a pistol at his head, and shoots him through the brain. The assassin then leaps from the box to the stage, and escapes. The President lingers until the next morning, when he dies. This atrocious murder cannot be reckoned simply as a homicide. It is almost equivalent to the homicide of a great people. It causes consternation and despair. In the conspiracy by which the President was killed, Lewis Payne (or Powell) was *particeps criminis*. He bursts into the bed-chamber of the great Secretary of State, William H. Seward. He springs upon the couch of the sick man like a tiger thirsting for blood. He stabs him almost unto death, and escapes. We know the result of the trials which followed,—the fate of Payne and his fellow-conspirators, David E. Herold and George A. Atzerodt, and others inculpated, and the terrible fate which overtook Mrs. Mary E. Surratt. It was at her house that the plot was alleged to have been formed. She had no plea against the panic—no plan offered her escape. Others besides herself were sentenced, in the fury which ensued, without much deliberation.

Thus passed away this prudent, clement, and great President. The difficulties of the South were magnified. The voice of lamentation which

went up in behalf of the dead President, as his body was borne throughout the country, was mingled with execrations, loud and long, against the war and the Southern people.

Under these circumstances the Presidential office was a most difficult trust when Andrew Johnson succeeded to power. A Southern man, with intense views and invincible will, he soon finds that he cannot act in harmony with the extremes of the Republican party. His vetoes and the long conflict end in his utter alienation from the party which elected him. Elections turn on his "policies." The questions of amnesty and reconstruction which had been uppermost in the American mind from Lincoln's death on the 15th of April, have already been discussed. The moderation of Lincoln had no practical revival until 1876; or until the final composition by the election of Grover Cleveland in 1884. These last two decades constitute a cycle which encompasses the greatest events known to human history, including every form of crime and tragedy which has marked the calendars of mankind.

Conspicuous for its dramatic interest is the impeachment trial of Andrew Johnson. His trial is a scene for the best pencil of art; his acquittal an occasion for the loudest huzzas of honest patriotism.

Andrew Johnson became the Republican candidate for the office of Vice-President in 1864. This was partly in deference to the honored custom of selecting the two highest officers of the nation from different sections of the country. His courageous and aggressive opposition to secession and its consequences had commended him to the cordial support of Northern men. He belonged to that insurgent Alleghany range which did not bow to South Carolina. He would never have been thought of in connection with that high office, but for the sterling characteristics exhibited by him as a defiant Democrat in Congress, and as an equally determined provisional governor of Tennessee. At his accession to the office of President upon the death of Mr. Lincoln, Mr. Johnson's mind was imbued with a sentiment of rancor toward the secession leaders. In this respect, he differed widely from his predecessor. Mr. Lincoln's kindly nature was averse to harsh measures. His cool judgment inclined him in favor of a generous policy.

But while Mr. Johnson was at that time unrelenting, and while he declared that "treason must be made odious," he had never been in harmony with the ultra-Republicans in their extreme views. He differed from them radically upon the two great questions of restoring the seceded states to their relations in the Union, and of determining the proper status of the colored race in the body-politic. On these essential questions he took issue with the Republicans. It cannot be said that, in the course he pursued, he was inconsistent, or treacherous to principle. Prior to the Presidential election in 1864, the Republicans had never, as a party, decided that the state constitutions must be renovated further than by the recognition of emancipa-

tion, the abrogation of the slave-codes, the repudiation of all debts, whether Confederate, state, or municipal, which had been contracted in aid of rebellion, and the renunciation of the right of a state to secede from the Union. Even Thaddeus Stevens, the leader of the house, who would have confiscated the property of the whole slave-holding class, hesitated long before urging the enfranchisement of the negroes. He saw that if that measure were enforced upon the South, consistency would require its adoption in Pennsylvania. The Fourteenth Amendment, proposed by Congress in 1866, refrained from enfranchising the negroes. It did not require the seceded states to enfranchise them, as a condition of restoration.

The Republicans quarreled with President Johnson, therefore, not because he could be justly charged with political apostasy, but because he failed to keep step with the party in its march on the road of extreme radicalism. That party had an overwhelming majority in both branches of Congress. Its leaders were intolerant of opposition. They determined to get rid of the President.

A resolution was accordingly adopted on the 7th of March, 1867, authorizing the Judiciary committee "to inquire into the official conduct of Andrew Johnson, Vice-President of the United States, discharging the present duties of the office of President of the United States."

The committee were to report whether the said Andrew Johnson had been guilty of acts which were designed or calculated to corrupt and overthrow the government, and whether he alone, or conspiring with others, had been guilty of acts which are denominated crimes and misdemeanors by the Constitution.

Several months were spent by the committee in examining witnesses and collecting testimony. At the next session of Congress, in December, 1867, a majority report and two minority reports were made. That of the majority was signed by George S. Boutwell, Francis Thomas, Thomas Williams, William Lawrence, and John C. Churchill, Republicans. They reported in favor of the impeachment of the President, mainly because of his attempts to reconstruct the seceded states without calling on Congress to originate the process. There were other grounds of impeachment urged; but this was the principal one upon which the majority of the committee relied.

Messrs. James F. Wilson, of Iowa, and Frederick E. Woodbridge, of Vermont, were on the committee. They were Republicans. They took issue with the majority. At the close of an exhaustive examination of the facts and of the law, they concluded that the case presented no such high crimes and misdemeanors as called for "the interposition of the Constitutional power of the House." These gentlemen, however, condemned the course pursued by the President.

Messrs. Samuel S. Marshall, of Illinois, and Charles A. Eldridge, of Wisconsin, Democrats, of the committee, concurred in the legal conclusions

of Messrs. Wilson and Woodbridge, but took issue with them in regard to the character of the President's measures. They defended his general course of action.

It is a singular fact, that in the articles of impeachment finally adopted by the House of Representatives, the gravest of the charges contained in the majority report of the Judiciary committee were passed over in silence. Indeed, only one of the several minor charges reported by that committee as grounds of impeachment found a place in the articles on which the President was arraigned. That committee had incubated for a year. The testimony collected, and the reports, made a volume of above twelve hundred pages. It might have been burned as stubble. It was utterly worthless.

But the Republican majority of the House was not to be balked so easily. It had its stern purposes. One of these was to get rid of Andrew Johnson as President of the United States and to put Benjamin F. Wade, of Ohio, the then President *pro tempore* of the Senate, in his place. They accordingly made terrible inquisition, in every sinister way, to find new grounds for impeachment. Edwin M. Stanton, the Secretary of War, furnished the pretext. He had been appointed in 1862, by Mr. Lincoln. He had been invited, or permitted, to hold over by Mr. Johnson. He was now in sympathy with the extremest wing of the Republicans, although at the beginning of the civil commotion he was a secessionist in theory and in feeling. He now availed himself of the terms of the Tenure of Office act, to disregard the wishes and the mandates of the President. He assumed, in fact, the prerogatives which the Constitution reposes in the President, as Commander-in-Chief of the Army. An act was passed on March 2, 1867, in derogation of the Constitution, for the purpose of stripping President Johnson of his rightful authority. The purpose of the act was to deprive the President of the power to remove civil officers without the consent of the Senate. The President, nevertheless, on Aug. 5, 1867, sent a written message to Mr. Stanton, requesting his resignation. The latter, contrary to every precedent, declined compliance. The President then suspended him. He appointed General Grant, the Commander of the Army, as Secretary *ad interim*. Stanton had no alternative but submission. But when Congress met, in December, the Senate refused to sanction the suspension.

This action of the Senate left the President the alternative of tolerating a man in his Cabinet who utterly and defiantly disregarded his wishes, or of exercising his undoubted prerogative of removal, which Congress had attempted to take from him. He chose the latter course, and on the 21st of February, 1868, he dismissed the recalcitrant secretary, and appointed Adjutant-General Lorenzo Thomas as Secretary *ad interim*.

These events furnished the majority of the House of Representatives with what they regarded as valid grounds of impeachment. They had passed an unconstitutional statute. The President had disregarded it. On the 24th of

February, 1868, James M. Ashley, of Ohio, a member of that body, presented eleven articles of impeachment, for high crimes and misdemeanors. The foregoing facts connected with the suspension and removal of Stanton, and the appointment of Adjutant-General Thomas as Secretary *ad interim*, constituted the warp and woof of nine of the eleven articles, and a part of one other. Among the charges was that of a conspiracy between the President and General Thomas. It is surprising that the astute authors of the articles failed to perceive that the same charge of conspiracy was equally applicable to General Grant, who had served as *ad interim* Secretary under like appointment. The tenth and eleventh articles founded charges of misdemeanor upon certain extracts, which they recited from out-of-door speeches made by the President to the people of Washington, Cleveland, and St. Louis. The country well remembers Mr. Johnson's escapade in 1867, in company with his Cabinet. It was known as "swinging round the circle." It was while on that somewhat extraordinary "Progress" that he indulged in some wretched rhetoric at the expense of the majorities in the two houses of Congress. The speeches were doubtless in questionable taste. They may have been unbecoming a Chief Magistrate of the United States, but the historian does not style them high crimes and misdemeanors. These ill-tempered speeches of the President constituted the only link between the long array of impeachable offenses set forth by the Judiciary committee in December, 1867, and the eleven articles sent up by the House two months later. The House was searching for a pretext. They found one. The Spanish maxim has it—"If you want to kill your dog, say he eats iron." There was no lack of excuses for this trial.

The House having resolved to impeach the President of high crimes and misdemeanors at any rate, the fact was communicated to the Senate. The latter body at once began preparations for the momentous duty. It was necessary, pending the trial, for the Senate to lay aside its legislative functions, and to resolve itself into a court of justice, after the manner of the House of Lords in England when a peer is to be tried for any offense. In that country peers of the realm are only triable by the House of Lords, whether for treason or other crimes. In this country, the Senate of the United States, and also the senates of the several states, are vested with judicial authority for the trial of cases of treason, malfeasance, and misfeasance of the higher officials.

Only four or five impeachment cases have thus far been brought before the United States Senate sitting as a court of justice. The first was that of a Senator from Tennessee, William Blount, in the year 1797. A very suspicious letter from him to an Indian agent in East Tennessee fell into the hands of the government. It was communicated to Congress by the President, John Adams. It clearly indicated that an intrigue was on foot, in which Blount, in conspiracy with agents of the British Government, was en-

deavoring to alienate the Indians from their allegiance to this country. His latent purposes were never fully developed, but the correspondence leaves no doubt that he was engaged in a base and unpatriotic, if not treasonable conspiracy. The charge was: Conspiracy with Great Britain to wrest Florida and Louisiana from Spain. He was impeached by the House, July 17, 1797. The Senate made preparations for his trial. He was first suspended, or "sequestered," as the phrase was, and required to give security for his appearance before the impeachment court. But before the case was determined the Senate expelled him. Subsequently, on the 11th of February, 1799, the senatorial court decided that a Senator is not an officer of the government, and therefore not impeachable. This first experiment of converting one branch of Congress into a grand jury and the other into a court of justice was found to be an immensely tedious and expensive business.

The second case of impeachment was that of United States District Judge Pickering, of New Hampshire. In 1804, he was impeached on charges of corruptly releasing a vessel without requiring a bond. The vessel had been seized for smuggling. He was also accused of drunkenness, and the use of indecent language while on the bench. These offenses were committed in 1802. The articles were four in number, and he was convicted on each of them in March, 1804, and removed from office.

The next case of impeachment was that of Judge Samuel Chase. He was a justice of the Supreme Court of the United States. He was a signer of the Declaration of Independence. He represented his native State of Maryland. He was a Revolutionary patriot of the most radical and determined character. But in the division of the people into parties, he became a Federalist, as pronounced and aggressive as he had been as a Whig in the struggle with Great Britain. He sat on the trial, in the Circuit Court of Pennsylvania, of one Fries, charged with treason in the whiskey rebellion, and of Callender, a Republican or Democratic editor, indicted under the sedition act. The latter was charged with having libeled President Adams. Judge Chase allowed himself to be betrayed, as was alleged, into the use of violent language while conducting these trials. His conduct was unbecoming the bench. John Randolph, of Roanoke, in 1804, then a member of the House, introduced resolutions of impeachment. They were adopted. Randolph became chairman of the managing committee. He was associated with able lawyers — members of the House. Judge Chase was an able jurist. He employed some of the most eminent members of the bar as his counsel. Robert Goodloe Harper, of Baltimore, was his leading counsel.

The trial ran through many weeks. The arguments were elaborate and able. They were published, with the testimony, in two volumes. The respondent was acquitted. On five of the eight articles, a majority of the court voted not guilty.

Judge Peck, of the United States District Court of Missouri, was im-

peached in the year 1826, on charges similar to those in the case of Judge Samuel Chase. The case was one of great and general interest in those "piping times of peace." It happened also that some of the most eminent names in the history of the country were connected with the trial. William Wirt was of his counsel. Daniel Webster, John M. Clayton, Edward Livingston, George R. Poindexter, Felix Grundy, Hugh Lawson White, and John Forsyth, as Senators, sat as judges. Mr. Benton, though a Senator, was called as a witness, and therefore could not sit as a judge. The respondent was acquitted by a vote of twenty-two to twenty-one.

In 1862, the United States District Judge of Tennessee, West W. Humphreys, was impeached for advocating secession in a public speech at Nashville, Dec. 29, 1860; for openly supporting and advocating the Tennessee ordinance of secession; for giving aid in organizing armed rebellion; for conspiracy with Jefferson Davis; for neglecting and refusing to hold the United States District Court; and for acting as a Confederate judge, and as such, sentencing men to banishment and imprisonment, confiscating property of loyal owners, and especially, the property of "one Andrew Johnson;" and arresting and imprisoning "one William G. Brownlow." He was convicted on each of these charges except that of confiscating Johnson's property. He was not present at the trial; it was somewhat of a *fiasco*, as a grave performance. It was the first trial of the kind which the writer had seen.

But by far the most celebrated case which this country has witnessed, was that of President Johnson. It could not result in shedding the President's blood. It could not eventuate in decapitation, as in the cases of Charles I. and Louis XVI.; but no event in the history of the Republic, unless it be a great rebellion, can be compared in importance to the removal of the chief magistrate of such a nation by impeachment. The impeachment resolution was adopted by the House on Monday, Feb. 24, 1868. On the following Monday, March 3, the articles of impeachment were agreed upon. On Wednesday, the 5th, they were presented to the Senate by the managers, Messrs. John A. Bingham, of Ohio; George S. Boutwell, of Massachusetts; James F. Wilson, of Iowa; John A. Logan, of Illinois; Thomas Williams, of Pennsylvania; Benjamin F. Butler, of Massachusetts; and Thaddeus Stevens, of Pennsylvania. Mr. Bingham, the chairman, read the articles.

Each of these names is well known. Judge Bingham, of Ohio, was a member of Congress of rare elocution. He lacked the reasoning faculty, but he could, as Thaddeus Stevens used to say in his sarcastic way, appeal to the "gathered wisdom of a thousand years," in his references to Anglo-Saxon privilege and prerogative with more frequency than any orator known in the history of that race. He has been Minister to Japan since he left Congress. The remark is constantly made about him, that he never lied once during the Credit Mobilier investigations, but rather gloried in his frank admissions, and hence that he is without reproach. Governor Boutwell has a keen, care-

ful, analytic mind. His life in low estate began, but he rose by his intrinsic virtue and energy to the highest position in the grandest convocation of political scientists which this country has ever seen. The writer means the Massachusetts Constitutional Convention of 1850, which contained such men as Governor Briggs, Rufus Choate, George S. Hilliard, Benjamin F. Hallett, Benjamin F. Butler, Chief Justice Shaw, Marcus Morton, and others equally great and gifted. But, for the consummation of their work,— after their magnificent discussions and wise determinations, — the convention named George S. Boutwell. He crowned the work by an industry that was incessant and with a code that was superb.

One of the other managers of this impeachment was the present Senator from Iowa, James F. Wilson. He survives as a man of indefatigable and admirable legal ability. He is as fresh in vital force as when he argued these questions so fatefully pregnant to our land. Another manager was Thomas Williams, of Pittsburgh, a lawyer of the ancient kind, who would have been selected as a chief solicitor to the Crown, had he lived under royal auspices when great crimes were committed and defenses were needed. He was acquainted with all the precedents. Of Generals Logan and Butler, and of Thaddeus Stevens it is not necessary to speak. Their appearance was a sign that no omission would be made in the presentation of the case in all its salient and vindictive features.

The Senate adopted rules of proceeding and practice, twenty-four in number, for the government of the court. But when that august body convened on Friday, the 5th of March, Chief Justice Chase, whose office it was to preside, suggested that it was appropriate for the court to adopt its own rules; and thereupon the Senators, acting in their judicial capacity, formally adopted the rules which they had agreed upon when acting in their legislative capacity. Each Senator, as well as the Chief Justice, was required to swear, or affirm, that in all things appertaining to the trial of the impeachment of Andrew Johnson, he would do impartial justice, according to the Constitution and the laws. Mr. Justice Nelson, of the Supreme Court, first administered the oath to the Chief Justice, after which the latter administered the same oath to each of the Senators, except Mr. Wade, of Ohio, whose right to sit on the case was challenged. Subsequently, however, for some reason, the challenge was withdrawn, and Mr. Wade, who would have been made President by the conviction of Mr. Johnson, voted with the majority, uniformly, upon preliminary questions, and finally upon the articles. On the latter his vote was that the respondent was guilty.

The court thus constituted sat, of course, in the Senate Chamber. It was opened by proclamation of the sergeant-at-arms in the usual manner, on the 13th of March. That officer was directed by the Chief Justice to command perfect silence. The galleries were crowded to suffocation with spectators. Not a seat was left vacant, nor a foot of standing-room. The managers on

one side, and the counsel for the respondent, Messrs. Henry Stanbery, Benjamin R. Curtis, Jeremiah S. Black, William M. Evarts, and Thomas A. R. Nelson, on the other, were assigned seats around the clerk's desk. These gentlemen had qualities equal to those of the managers. Of Judge Nelson, of Tennessee, it is unnecessary to speak, except to say that he was the least in experience before the Senate. Unexpectedly to some, but not to the writer, William S. Groesbeck, of Ohio, who was not at first in the case, was the most successful in presenting, with enormous vehemence of logic and eloquence, the defense of the impeached President. This might not have been said, had Mr. Henry Stanbery been in his usual health. Nor could this have been said, had not Judge Jeremiah S. Black retired from the case on an unfortunate dispute about a guano island, which involved the learned judge and the President in an infragrant disputation. Nor can it hardly be said, in comparison with the exhaustive forensic effort of the present Senator from New-York, William M. Evarts. Besides, for clear statement with pure diction, Benjamin R. Curtis, of Boston, bears a palm rarely awarded to an advocate in any forum. Such an association of legal learning and extraordinary graces of eloquence was not summoned for ordinary efforts. A French author has said that in the eulogy of the dead, and in defense of great criminals, the greatest marvels of oratory have been exhibited. But Andrew Johnson was neither dead nor culpable. His trial, nevertheless, was a superlative opportunity for the advocate.

First among these advocates was Mr. Stanbery. Take him all in all, as advocate and statesman, as a chivalric gentleman and as a man of surpassing beauty of person and emphasis of presence, he has had no peer in our American forum for three decades. Is this too partial? Perhaps. This gentleman was born in New-York on the 20th of February, 1803. His father, Jonas Stanbery, was a physician of social and professional standing, who, with his family, emigrated to Ohio in 1814, and settled at Zanesville, where the author of this book was born. Indeed, it may be said, with reserve and in extenuation, that Mr. Stanbery "stood up" with the author's parents at their marriage. Hence these partialities. In the year 1815, at the early age of twelve, Henry Stanbery was placed at Washington College, Pennsylvania. There he passed through its curriculum, and graduated in the fall of 1819. Having determined on the legal profession, he entered on the study of law in the office of Ebenezer Granger, of Zanesville. The death of his instructor occurring shortly after, he continued his studies under the supervision of Charles B. Goddard, of the same place, a gentleman no less distinguished for his professional and social standing. The exclusion of candidates for practice under the age of twenty-one rendered it necessary that he should remain a student for nearly five years. In the spring of 1824, having attained the statutory period, he visited the supreme court, then in session in Gallipolis, and by it was admitted to practice.

Here he attracted the attention of the late Thomas Ewing, of Lancaster. Then commenced that friendly association and professional competition, which were ended only by death. In his person Mr. Stanbery was remarkably handsome and attractive. His height was nearly or quite six feet. His form was symmetrical. His carriage was erect. His head, covered with dark silken hair, was stately poised upon slightly drooping shoulders. He moved with an air of dignity and grace. He commanded attention wherever he appeared. His voice was rich and resonant. His elocution was rapid. His utterance was pleasing. His emphasis and gesture were appropriate. A more magnificent presence never graced a court nor adorned a public rostrum. For many years Mr. Stanbery kept aloof from office, except that of attorney-general of Ohio. He was called by Andrew Johnson to the same position in a Federal way. No mind was ever better furnished for the law, and no career was ever more splendidly finished. He survived nearly all of his contemporaries. Perhaps his noblest fame was won when he defended his chief in this forum of the Senate.

The commanding presence of Chief Justice Chase made the scene in the Senate one worthy of Olympus, where Jove was known in the councils of the gods by "his great mien and power imperial." What an array of great talents is here! In what a great transaction! They are engaged in the prosecution and the defense of the chief magistrate of the great Republic of the New World! The interest increases. The brilliant assemblage of ladies and gentlemen in the galleries, including the diplomatic corps and their families, presents an imposing spectacle, such as is rarely or never seen in the lifetime of a generation.

The business begins! A preliminary question of importance is to be settled. It is as to the time which shall be given the respondent to plead. Mr. Evarts, on the part of his counsel, moves an allowance of forty days. In the case of Judge Chase, it is shown that thirty-two days were allowed, although there were but eight articles. In that of Judge Peck, although there was but one article, fifteen days were allowed. Mr. Bingham states, on the part of the managers, that the eighth rule requires the respondent to plead immediately on entering his appearance, in person or by his attorneys; otherwise, the case to proceed as upon the general issue. The managers think that the rule means precisely what it says, and that, appearance having been entered and no answer filed, the trial should proceed forthwith. It is finally determined to give the President ten days in which to enter his answers to the articles. These proceedings take place on the 13th. On the 23d, the counsel for the President enter answers to the several charges. All of these radiate, however, from the two centres above named,—that is to say: the removal of Secretary Stanton, and the intemperate speeches made by the President while on his "stumping" tour.

The replication to the answers is filed by the managers on the follow-

ing day. Then the counsel for the respondent renew their application for longer time in which to prepare for the trial. They ask for thirty days; but, after debate, only five days additional are allowed.

On the 30th of March, Mr. Butler opens the case on behalf of the managers. He sets forth the grounds on which a conviction is urged. Witnesses are then examined. Elaborate documentary evidence is introduced. The trial, with varying prospects, runs through the month of April and into the middle of May.

It is not possible to portray the kaleidoscopic phases of this trial; nor to transcribe the speeches and their effect, which were made for and against the impeachment. The most remarkable speech was made by Mr. Groesbeck; but altogether the appearance and phrases of Mr. Stanbery were the most impressive and emphatic. He had resigned the office of Attorney-General to take part in the trial. It was his last public appearance. The company was worthy of such an associate. No such assemblage of legal talent, no such exalted official personage, no such gravity of criminal charge, had ever before given incident and interest to the history of the Republic.

No one appreciated the gravity of the occasion more than did this friend of the President. He was familiar with every step. He was advised of the motives which prompted it, and had carefully investigated the legal propositions involved. He had seen the conflict between the executive and legislative departments of the government. He was not unprepared for the result. He was feeble in health, but strong in the consciousness of right. In that august assemblage of peers, when he rose to speak he was the cynosure of all eyes. Every ear listened to catch the faintest murmur of his finely-modulated voice.

After an apology for his frail health, his voice rose and lapsed with musical cadence. With a weird meaning and abstracted manner he tells the Senators that unseen and friendly hands seem to support him; that voices inaudible to all others, he hears, or seems to hear. They are whispering words of consolation, of hope, of confidence. They say, or seem to say: "Feeble champion of the Right! Hold not back! A single pebble from the brook is enough in the sling." Then he states the facts and argues the law. He then rises to his grandest height in his peroration.

"Listen for a moment," said he, "to one who, perhaps, understands Andrew Johnson better than most of you; for his opportunities have been greater. When, nearly two years ago, he called me from the pursuits of professional life to take a seat in his Cabinet, I answered the call under a sense of public duty. I came here almost a stranger to him and to every member of his Cabinet, except Mr. Stanton. We had been friends for many years. Senators, need I tell you that all my tendencies are conservative? You, Mr. Chief Justice, who have known me for a third of a century, can bear me witness. *Law*, not *Arms*, is my profession. From the moment that I was

honored with a seat in the Cabinet of Mr. Johnson, not a step was taken that did not come under my observation; not a word was said that escaped my attention. I regarded him closely in Cabinet, and in still more private and confidential conversation. I saw him often tempted with bad advice. I knew that evil counselors were more than once around him. I observed him with the most intense anxiety. But never in word or deed, in thought, in action, did I discover in that man anything but loyalty to the Constitution and the laws. He stood firm as a rock against all temptations to abuse his own powers, or to exercise those which were not conferred upon him. Steadfast and self-reliant in the midst of all difficulty, when dangers threatened, when temptations were strong, he looked only to the Constitution of his country and to the people.

"Yes, Senators, I have seen that man tried, as few have been tried. I have seen his confidence abused; I have seen him endure day after day provocations such as few men have ever been called upon to meet. No man could have met them with more sublime patience. Sooner or later, however, I knew the explosion must come. And when it did come, my only wonder was, that it had been so long delayed. Yes, Senators, with all his faults the President has been more sinned against than sinning. Fear not then to acquit him. The Constitution of the country is as safe in his hands from violence as it was in the hands of Washington. But if, Senators, you condemn him, if you strip him of the robes of his office, if you degrade him to the utmost stretch of your power, mark the prophecy! The strong arms of the people will be about him. They will find a way to raise him from any depths to which you may consign him, and we shall live to see him redeemed, and to hear the majestic voice of the people, 'Well done, faithful servant; you shall have your reward!'

"But if, Senators, as I cannot believe, but has been boldly said with almost official sanction, your votes have been canvassed, and the doom of the President is sealed, then let the judgment not be pronounced in this Senate Chamber; not here, where our Camillus, in the hour of our greatest peril, single-handed met and baffled the enemies of the Republic; not here, where he stood faithful among the faithless; not here, where he fought the good fight for the Union and the Constitution; not in this chamber, whose walls echo with that clarion voice that, in the days of our greatest danger, carried hope and comfort to many a desponding heart, strong as an army with banners! No, not here! Seek out, rather, the darkest and gloomiest chamber in the subterranean recesses of this Capitol, where the cheerful light of day never enters! There erect the altar and immolate the victim!"

The effect of this remarkable speech before a sedate tribunal like that Senatorial court was unique. The fortunes of the arraigned President had been varying with each figure of rhetoric, and each gleam of sunshine.

At last the vote is taken. It is taken on the eleventh article first of all.

This is done by way of testing the strength of the impeachers, or possibly in deference to the Scripture maxim that the last shall be first. The article is read, whereupon the Chief Justice says: "Call the roll!" The chief clerk calls the name of Mr. Anthony. Mr. Anthony rises in his place. The Chief Justice: "Mr. Senator Anthony, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty or not guilty of a high misdemeanor, as charged in this article?"

Mr. ANTHONY. "Guilty!"

Each Senator, as his name is called, is interrogated in this form. Each rises to make answer. The Chief Justice offers to excuse Messrs. Howard, of Michigan, and Grimes, of Iowa, who are in feeble health. They are barely able to be present. It is an effort for them to rise when giving their votes. But each in turn is called. They prefer to rise, — Mr. Grimes not without the assistance of friends.

The Senators who voted "Guilty" were: Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Wade, Willey, Williams, Wilson, and Yates — 35.

The Senators who voted "Not guilty" were: Messrs. Bayard, Buckalew, Davis, Dixon, Doolittle, Fessenden, Fowler, Grimes, Henderson, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Trumbull, Van Winkle, and Vickers — 19.

A vote of two-thirds being necessary, under the Constitution, to convict on impeachment, the eleventh article fails to be adopted. The majority thereupon adjourn the court until the 26th of the month. Then a vote is taken on the adoption of the second article. The result is precisely the same as with the eleventh. The third article is then voted on, with precisely the same result; when, on motion of Mr. Williams, the court adjourns *sine die*.

Thus ended the most momentous trial of our time. On one vote depended this stupendous verdict.

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There are some matters connected with this remarkable trial and its result, not known of record. They are known to those who were intimate with President Johnson; among others to Reverdy Johnson, to Col. William G. Moore, his private secretary, to William W. Warden, a trusted friend, and, we may add, to the writer hereof. The confidence of the President was evidenced by the tender to the author of an appointment as Minister to Austria. What is said herein of the minor history of the impeachment has, therefore, this sanction.

There were conferences between friends of the President at the "Johnson

Annex," which should be printed. Some memory of these conferences, as well as of interviews with leading Republicans, should be preserved.

From the date of the formal inception of the impeachment scheme to the date of the verdict, one of these gentlemen, Mr. Warden, was constantly interrogated by the Senators and Representatives who had ceased to visit the Executive Mansion, concerning President Johnson's sentiments and purposes. They wondered how he looked at the proceedings. "Of these things I faithfully and promptly informed him," says Mr. Warden, "in our evenings together. When we met at night—no matter how frequently we may have met during the preceding day — Mr. Johnson opened up with: 'Well, what are the signs of the zodiac to-day?' Thereupon I would proceed to inform him what the main features in the leading newspapers contained — always truthfully relating what was said of him personally or relative to his policy, sometimes reading aloud portions, and never failing to let him have opportunity for forming his own estimate of the prevalent opinions, in favor of or against him. Then I proceeded to relate the occurrences of the day in Congress. As, briefly, for example: 'Mr. Bingham and General Butler had a fierce debate in the House to-day;— Butler charged that Bingham had been guilty of a legal murder in the trial of the assassins of President Lincoln.' Then I gave the occurrences in the Senate. In this manner I imparted my information of all kinds, and as the impeachment trial progressed, and especially when nearing the end, I informed him that, besides the clamor of the radical Republican press for a verdict of guilty and the eviction of Mr. Johnson from the White House, the House managers had been openly predicting dire calamity to the country as the result of an acquittal of the President, primarily because a verdict of 'not guilty' would encourage Mr. Johnson to 'do rash things'; 'go on in his excesses'; 'encourage the ex-rebels'; and further, that these alarmists in the Senate had begun to threaten 'with infamy' any Senator who should vote 'not guilty'; and that secretly, in their talks among themselves, the radical Republican Senators were endeavoring to 'frighten off' the so-called 'doubtful' Republican Senators, who, it was then believed, would vote for acquittal.

"Senator Reverdy Johnson," said Mr. Warden to the writer, "had made an arrangement with me whereby I was to meet him at his home — the Johnson Annex to the Arlington Hotel — every evening at eight o'clock, and there talk over the affairs of the day. In those conversations he told me of the utterances of the radical Senators. As the partisan feeling in the Senate became somewhat fierce, Senator Johnson became apprehensive that one or other of three of the 'doubtful' Republican Senators might be driven to vote 'guilty'; and the Senator informed me that these 'doubtful' members had said to him that it was unfortunate that there was no means practicable by which they could have 'assurances from President Johnson that he did not intend any rash act,' in case of a verdict of acquittal. Senator Johnson

asked the Senators what they would suggest for relief from their perturbation. They replied: 'Let him [the President] get himself heard publicly in some form, denying such intention.' Senator Johnson told these Senators that President Johnson, even if inclined to such course, was in no position to be heard publicly on this subject, except by his counsel in course of their arguments, and that assurances from that source would not be received as binding.

"Thereupon Senator Grimes — one of the best of the radical Republican Senators, and who finally voted 'not guilty' — calls Senator Johnson aside upon the floor of the Senate. A brief, earnest interview is held. It is confidentially agreed that if it could 'so happen' that President Johnson and Senator Grimes should meet, casually, or in a social way, the subject would be discussed informally, so that President Johnson might respond in his own way to the assertions that he would do rash acts, and encourage rebels."

Senator Johnson suggested to Mr. Warden that at his next meeting with the President it would be advisable to let the latter know how the matter was affecting the doubtful Senators. Mr. Warden cautiously approached the President with an invitation from Senator Johnson to make the latter a brief visit at about nine o'clock on the following night. Meanwhile, Senator Johnson invited Senator Grimes, who lived "around the corner on I Street," to spend the evening. Owing to the peculiar nature of the President, it proved to be most difficult to bring about this desired meeting. However, the visit was made. Senators Grimes and Johnson are seated in the drawing-room of the latter's house. They pleasantly chat about trifles, until President Johnson arrives. He is accompanied by Col. Robert Morrow, of the President's executive household, and Mr. Warden. The greeting is exceedingly cordial.

After some rambling talk, relating to former days which these Senators had spent together, interlarded with some fun and humor, Senator Johnson, at the conclusion of an amusing anecdote he had been telling, cleverly broaches the subject that had brought the party together. In a short time, there is a candid interchange of sentiments; during which President Johnson becomes quite excited when expressing his indignation at the assertions of the alarmists in the Senate. He exclaims: "They have no warrant whatever, in anything I have said or done for believing that the President intends to do any act which is not in strict conformity with the Constitution and laws." He becomes eloquent as he proceeds. He convinces all present that he heartily and honestly means what he says.

Senator Grimes has frequently said, in defense of his vote for acquittal, that, for himself, he never believed President Johnson intended to do wrong, as alleged by the alarmists; but, that even if he had been doubtful before this meeting, he would have come away with full confidence in the President's patriotism and law-abiding intentions.

The party remained together an hour. They separated much gratified. Upon the following day, Senator Grimes, in a confidential, seemingly casual chat with the three doubtful Senators, inspires confidence. Without telling them upon what authority he acts, he says to them solemnly: "You may rely implicitly upon this: I know Johnson's purposes in the event of acquittal. You need not fear his behavior will cause you to regret your vote, whichever way you may cast it. He does not dread, personally, a verdict of guilty. He believes such a verdict would be disastrous to the Republic, and hence prays for acquittal. But he has no thought of wrong or rash doings."

The proceedings of the trial were about closing, when the writer, then out of Congress and practicing law in New-York City, received a telegram from Mr. Charles W. Wooley. It required the author's presence at Washington. It gave him some mysterious reason. He arrived at Willard's and was informed by Mr. Wooley that it was suggested that John B. Henderson, then a Republican Senator from Missouri, was one of the doubtful Senators, and as it was understood that the Senator and the author were old friends, the telegram was sent. It was true that the friendship existed. They had been Douglas Democrats in stormy times together. The friendly relation yet exists. General Henderson is a man of great affectionateness and absolute probity. But his nature is mellowed with a geniality which is a leading trait in the nobility of the man. He is not a bitter partisan, although he presided over the National Convention that nominated Mr. Blaine in 1884.

It was then thought that the writer could influence this Senator. Whether he could or not,—or did or not,—he called on him to make the best impression possible on behalf of "acquittal." A public meeting had just been held at St. Louis, to instruct the Senator to vote "guilty." His sense of justice had been affronted by this. In this mood the writer found him. He seemed to want advice and counsel. It was not long before the writer was requested by the Senator to pen and send a telegram to the president and officers of that impudent St. Louis meeting. It substantially read: "I am a judge in the impeachment case. You have no right to instruct me in such affairs. As I am an honest man I will obey my conscience, and not your will. I shall vote 'not guilty.'"

And he did so vote. A copy of that telegram the writer took to the White House at midnight. He found the President gloomy. His fate depended on one vote—nay, on this one Missouri vote. Grimes and Ross were sure, but Henderson was not. The telegram was read to the President. A festivity was improvised on the good news; and the morning dawned with roseate hues for all interested in the righteousness of the President's acquittal, and the certainty of the vindication of a President, than whom no man was ever more vilipended without justifiable cause.

CHAPTER XXXIII.

AMNESTY.

THE VICISSITUDES OF THIS QUESTION—CARRIED ONCE IN THE HOUSE—COLORED VOTES FOR IT—GENERAL BUTLER'S BILL OF GRACE WITHOUT GRACE, AND PUNITORY PARDON—MILITARY REPRESSION AND CIVIL OPPRESSION—RANCOR CHERISHED—HOPES OF RECONCILIATION MOCKED—SPURIOUS SPIRIT OF AMNESTY—MR. GREELEY'S NOMINATION—ITS CAUSES—MR. LINCOLN'S PURPOSE OF MERCY—MR. BLAINE'S ACTION—THE PAGAN POLICIES OF REPUBLICANS—EXECUTIVE PARDONS AND THE AMNESTY OF THE CONSTITUTIONAL AMENDMENT.

AMONG the first bills introduced for amnesty was one the author offered in Congress as early as 1869. In fact he generally had charge of matters of a kindred nature. His object in congressional service was, since war could not be alleviated of its cruelties, to mitigate, in so far as it could be done, the proscriptive tendency which kept our people separated by a great chasm. In moments of unimpassioned patriotism the House indicated its preferences in the same direction. It may be said here that this bill came within two votes of passing the House of Representatives when it required a two-thirds vote. That majority included some colored members. In 1870, Gen. Benjamin F. Butler, then a member from Massachusetts, introduced his bill for a general grace, amnesty, and oblivion. It was copied from an old English statute about the Scotch Rebellion. The writer characterized it from his seat as a bill for pains and penalties, with a meagre element of mercy; yet it was a step toward amnesty. It was grace which was grudged, amnesty which was exceptive, and oblivion brimful of memories. It was most ungracious grace. It was punitory pardon; it was a rushing and turbulent lethe. The author pleaded for mercy on the old and fraternal plan, and against eternizing proscription.

Another bill appeared in Congress as late as 1875, to prevent the subversion of state authority and to maintain the security of elections. It provided against the invasion of states. There were sections in it which prescribed penalties of fine and imprisonment, and authorized suspension of

habeas corpus. The appointment of Federal supervisors, and other measures intended to inaugurate force and suppress freedom a decade after the war was over, were also provided for. General Butler's bill had in it what the bill of 1875 had not; it had some liberality. Five years had not lessened the hatred of the Northern radical toward the Southern insurgent. General Butler's bill had a strange feature in it; oblivion for the agents and officers of the United States engaged in reconstruction! Amnesty for the conqueror!

The history of the United States, from the close of the war until 1876, was a history of military repression and civil oppression, which destroyed the old divisions of power. The complex nature of our Federal and local governments was ignored. There was a time in our emergencies when men in their extreme views cried out for imperial power. The writer never sat at the feet of such tuition. Sometimes they preferred military rule, and sometimes revolution. There were civil convulsions, as we have shown, in Louisiana and elsewhere. They were marked with blood and saturated with fraud. The many South were discontented. They were willing to be pinned to the Union even by an honest bayonet, held to it by the mailed hand, or shackled to it by an iron gyve, rather than to be controlled by such State governments as were established for many years after the war.

The aspiration for civil discipline and patriotic allegiance was chilled in the South. The feeling that allegiance led to protection, and that these were co-ordinate in essence and should be in practice, was forgotten. Had the bugles at Appomattox sounded merely a truce? It was hoped that the conditions of peace frankly tendered by General Grant would create a contented people, and would be observed; that all future griefs would be solaced; that magnanimity would conquer hatred; that scorn and revenge would have their anodyne, and that for uncounted decades there would be no interregnum in the serene dynasty of peace and love; that through the bleeding and distracted land, and over the scenes and graves, and over the sorrows of mourning, the lethean stream would gently flow. But what did "peace" bring to the South? Only the respite of despair. It was the sign and proof of death. It was lethe, except its sleep. It was all of death with its sting and without its repose. Homes were wasted; property was confiscated and destroyed; enterprises ruined; cities burned, and the whole country swathed in destruction. But after all, it was expected that amid these immeasurable calamities hates and griefs would not be perpetuated; that the new generation would not wear rancor in their hearts until their hair whitened; that they would not teach their children to perpetuate the hate of their fathers.

For ten years, the middle decade, the hopes of the patriotic were mocked. What a mockery! God had fixed his creatures in this fair land in habitations bound together by the same rivers, mountains, lakes, and skies. He had fixed in their hearts the ennobling principles of unity and peace. He had sent to the world the divine Prince of Peace, as an exemplar and Saviour.

And yet, these benefactions were despised, they were turned by the passions and ambitions of men to shameful mockery. The great disasters which are enumerated in this history of excesses, both in reference to the war and reconstruction, were the result of a diabolical lack of conciliation.

Even yet, as the author pens these words, complete rehabilitation has not been accomplished. There are men yet living, exponents of large constituencies. who have not been restored to their citizenship. They are living under our laws and Constitution.

The amnesty doled out by Congress through many years was a petty, personal amnesty. It was not based on a general rule. It has never yet reached a principle. Such partial legislation was more objectionable than would have been a general bill with bad features. It offered a premium to hypocrisy.

During and after the election of 1868, there was an opportunity for improvement and liberality in the impulses and sentiment which were leading to the nomination of Horace Greeley. The writer has already said that he was a successful candidate for Congress against Mr. Greeley in New-York City, in 1870. Two years afterwards his opponent was nominated for Chief Magistrate by the Democratic convention. It was Republican discontent in regard to the condition of the South that brought about this remarkable result.

Grant's agreement with Lee, and Sherman's with Johnston had not been fully observed. Had they been observed, the third section of the Fourteenth Amendment of the Constitution, which forbade the insurgent leaders from holding Federal and state offices, would never have been passed. Had there been immediate representation from the South, according to General Grant's recommendation, the discontents, wrongs, and troubles of the South which continued so long, would not have existed. It is one of the marvels of history, that in a country like ours, political regeneration should have been so long delayed. The French, the Turks, the Germans, are better in this regard. With a public opinion, led by a vigilant and generous press, leaning toward measures of mercy, our course was more like the continuance of proscription than its discontinuance. The great radical anti-slavery party of 1860 had not the courage, wisdom, or magnanimity to pass measures of amnesty, and thus secure the best prize of war; — the contentment of a brave and conquered people. Even when the war was flagrant there seemed to be more generosity toward the South, in some respects, than after it was over.

When Mr. Orth, of Indiana, advocated his harsh measure of penalties against the innocent children of supposed guilty parents in the South, on the ground that philology was progressive; and when he urged that the Constitution, though not changed in terms, had been changed in meaning by the progress of our chaotic era, he found an element of clemency in President Lincoln's heart which said: "'Suffer little children to come unto me, and

forbid them not.'" That President vetoed the harsh bill of that Congress. It was vetoed upon the speech of the author opposing it.

When the amnesty bill of General Butler came up as the best possible of that day, as it was said in 1870, the writer examined it very critically. He debated it fiercely in the House. Its title did not properly express its intent. The title applied only to its first section. The second section was for the relief from litigation of those who committed abuses in suppressing the rebellion, as well as of those engaged in it. The third section contained clauses of exception. The title for the last section should have read: "A bill for special and general grace, amnesty, and oblivion of the Republican party in the destruction of the old and the reconstruction of the new governments, South." The bill excepted what General Butler called politicians from its favor, but that made its general title a solecism. It was the play of Hamlet, not only with Hamlet, but Polonius, king and queen, all but the players, left out. An amnesty bill with exceptions was no amnesty. A tender of redemption to a fallen world including even the chiefest of sinners, the Sauls of the rebellion of sin, was not the model of this kind of legislation. The offer of grace should have copied the eternal plan. All who believed and repented, and would be saved, should have been permitted to come and partake of the waters of amnesty freely. The tender would have been just as kind, if they did not come. It should have been free grace, instead of an act to perpetuate reprisals after surrender; it should have been balm and healing; not the opening of wounds afresh, but the pouring of oil on the wounds. The disqualifications by the test act, and the test oaths which it took so long to remedy and repeal, were not removed by the letter of this law nor by the spirit which inspired it. If there were any comprehensive effect to be given to the executive proclamations of pardon, then that bill, and others which followed it, were surely unconstitutional; for the proclamations of pardon, according to the best authorities, as Mr. Attorney-General Garland has demonstrated in a recent Opinion, covered with a veil all culpabilities. They placed those concerned in the same position as if their offenses had never been committed. The spirit of qualified amnesty then proposed, is the same spirit which is regnant to-day among many leading Republicans. But such was not the spirit which inspired their better element when Horace Greeley was nominated in 1868. The wisdom or the unwisdom of his nomination has been discussed. Although his election did not entirely bridge over the abyss, it tended to do it. It built the piers. His nomination was a protest against military rule and heathen retaliation. The Democratic party, in standing by him, stood upon the ancient rock of social order by which states are reconciled and people are made harmonious.

The world has been cursed with military captains like Alva in the Netherlands and Turenne in the Palatinate. These were soldiers who made mercy the exception and devastation the rule. From such exasperating pol-

icies we turn to the policy of Hoche in La Vendee, and of the first Napoleon after the French Revolution. All history is full of illustrations of civil conflict ending in a blessed opportunity of amnesty. Whether Christian, Hebraic, or Pagan, history glorifies them. They are born of a sentiment which has been honored by the best men of all ages. It was sung by Ossian: "Be thou a tide of many streams against the enemies of thy country, but as the gale that moves the grass to those who ask thine aid. My sword was never stained with the blood of the vanquished, and never pierced a fallen foe." It is a part of the nobility of human nature,—in fact, it is the highest philosophy of self-preservation, to be clement. It is not only noble, but it is the highest degree of nobility. In the tournament the discomfited Paladin, lowering his lance before his adversary, received a generous hand to lift him up. Cicero, while Rome was racked with civil war, summed up the duty of a patriot in an appeal to a new method of conquering. It was to fortify the Republic with kindness. Even Charles II. was restored because of his liberal proclamation at Breda. The best writers in our English tongue, from Sir Thomas Browne, the quaint Christian, to Edmund Burke, in his grand speech for conciliation with America, teach with more emphasis than Tennyson's lyric, the nobility of kindness and the simplicity of faith in human nature which is better than coronets. Was it not Sir Thomas Browne, who said amid the passions of civil war: "Answer not on the spur of fury, and be not prodigal or prodigious in revenge. Supererogate not in the worst sense and overdo not the necessities of evil. Humor not the injustice of revenge. Many there be, to whom a dead enemy smells well; and who find musk and amber in revenge. But the ferity of such minds holds no rule in retaliations, requiring too often a head for a tooth. If thou must needs have revenge on thine enemy, with a soft tongue break his bones, heap coals of fire on his head, and enjoy it. To forgive your enemies is a charming way of revenge, laying them at your feet and unto sorrow, shame and repentance, leaving them fast your friends and solicitously inclined to grateful retaliations. Common forcible ways make not an end of evil, and will have hatred and malice bind them. An enemy thus reconciled is little to be trusted, as wanting the foundations of love and charity, and but for a time restrained by disadvantage or disability."

With this spirit enshrined in our policies, and superadded to that ineffable grace from Galilee,—from the great Teacher and exemplar,—the very root, bloom, and fragrance of our polity and civilization would have grown immeasurably beyond all the figures of our senses or the dreams of imagination. Could Mr. Lincoln have pursued his policy of charity,—that policy which he defined when he declared, that having conquered the enemy with the army, we would now conquer them with magnanimity,—much of disadvantage and more of hatred would have been obviated in the last two decades of our history. The conduct of such leading Republicans as Mr. Blaine, of

Maine, in the first and best impulses which led him to discountenance the Force bill upon the South, and to contend for a general amnesty, might have given us a wonderful effulgence of national glory. Perhaps the South itself is somewhat to blame for a change in the policy of this great Republic, for it is well known, and it was proved by the writer in a debate with Mr. Blaine, in the House of Representatives in the early part of 1876, that Mr. Blaine himself authorized the Committee on Rules, of which the author was a member, to report a bill of general amnesty from that committee. He was, as Speaker of the House, *ex officio* chairman of the committee. No excuse can be rendered, or ever has been rendered, for his precipitate retreat from the high ground which he then occupied. In proof of this, the record is presented. Moreover, had the same distinguished gentleman voted for the resolution which the writer offered, or assisted to make the vote unanimous in the House of Representatives, unity might have been given to the general sentiment of the country as to the purposes, objects, and situation of the government as between the sections. Here are the proposed resolutions reproduced from the *Congressional Record:*

"*Resolved*, That the people of the United States constitute a nation in the sense, to the extent, and for the purpose defined in the Federal Constitution. That the government of the United States is a Federal Union, and was formed by the people of the several states in their sovereign capacity; that the rights and powers of the United States Government are defined and limited by the Federal Constitution, and these rights and powers cannot be enlarged or diminished except by an amendment to the Constitution. That the rights of states have the same sanction of security in the Constitution as the rights and powers of the Federal Government; and that local domestic government by the several states, within the limits of the Constitution, is absolutely necessary for the preservation of the liberties of the citizen and the continuance of a republican system of government. That the doctrine that any state has the right to secede from the Union is in conflict with the idea of a perpetual union, as contemplated by the Constitution, and should be regarded as being forever extinguished by the result of the recent conflict."

The above resolutions form a compend of our republican system. They were intended to smother the incipient ambition of some Republican members who were eager to start a debate on "States Rights," in order to call off the attention of the Democratic majority from certain personal derelictions. A Republican member from Indiana had introduced a resolution giving a different interpretation to the Constitution; whereupon the writer obtained the floor to propose the above. It was carried by the convincing vote of 150 to 40. Many Republicans voted for it, in spite of the call of Mr. Blaine to vote them down. As Mr. Blaine was then a representative man, and openly aspiring to the Presidency, it is singular that he should have repudiated the doctrine that local domestic government of the states within the

limits of the Constitution is absolutely necessary to preserve individual freedom and perpetuate republican government.

As an example of the constantly recurring issues growing out of the question of amnesty, it may be remarked that the pardoning power has frequently been before Congress and the courts for consideration. In fact, almost while writing this chapter, an opinion of the Attorney-General in relation to the appointment to a high office abroad of one who had been pardoned for participation in secession, and who had not received the two-thirds vote for amnesty provided by the third section of the Fourteenth Amendment, is recorded. It was rendered on a question of disability to hold office. Had such disability been removed by the pardon, or had the Fourteenth Amendment, which was ratified after the pardon had been issued, revived the disability? But the question is still open, and is undergoing, and will undergo discussion, though not as to whether it would not be wisest to comply if possible with the Constitution as to amnesty, for to that all prudent men will agree.

It is an axiom of the courts that their province is to declare the law, not to make it. But the reports are full of evidence that enlightened judges seldom enforce laws of extreme harshness, against the public sentiment of the day, when their rigors may be escaped by construction. Many harsh criminal laws are declared "obsolete," although they were never repealed. Punishments that would shock the civilization of this age are prescribed in unrepealed statutes, but no court will give its sanction to them. They are "obsolete." Is it against public sentiment to-day, that an ex-Confederate general or senator takes a seat in Congress, or in the Cabinet or on the Bench of the United States? Is there any public sentiment that would exclude an ex-Confederate soldier from participating in this government in any way? Has not full and complete amnesty gone forth to the South from the people of this Union? Have not the people declared for the common brotherhood of a re-united nation, with equal rights and privileges for all its citizens? If by the word "obsolete" is meant in law, a statute inappropriate to the age, a penalty too harsh for enforcement, then, surely, the proscriptions of the Fourteenth Amendment are "obsolete." They have no place in the hearts of the people; they may be swept away as dead matter without a murmur of regret. The last sentence of the third section of the Amendment might well be construed by a learned and unprejudiced court, as in no way limiting the well known effect of an executive pardon, but, on the contrary, as vesting in Congress a power of grace for cases wherein executive clemency might be refused. If this relic of our civil strife is not obsolete on the statutes, as it is in public sentiment let the construction of the courts shroud its harsher features with the cobwebs of their darkest alcoves.

CHAPTER XXXIV.

TEST OATHS AND PENALTIES.

THEIR OPERATION IN THE ONE-TENTH RECONSTRUCTION PLAN OF HENRY WINTER DAVIS — UNFAIRNESS TO UNIONISTS — TEST OATHS DESTRUCTIVE OF TRIAL BY JURY — EFFORTS AT TEST OATH REPEAL — MODIFICATION PROPOSED BY THE REPUBLICANS — THE AUTHOR'S BILLS — POLITICAL OATHS IN FRANCE AND ENGLAND — THE PURITAN ATTITUDE — NOTABLE CHANGE IN ENGLISH SENTIMENT AND LAW — THE OBLIGATION OF AN OATH — OATH-TAKING AND OATH-BREAKING — THE MISSOURI IRON-CLAD — MISSOURI PERSECUTION OF SISTERS OF CHARITY — THE TEST OATH IN THE SUPREME COURT — THE GARLAND CASE — SENATOR GARLAND'S NOBLE STAND FOR THE REPEAL OF THE TEST OATHS.

IN the discussions of the various plans of reconstruction,—and especially that of Henry Winter Davis, on the 4th of May, 1864,—the requirement of a test oath in respect to uninterrupted loyalty to the general government, was predominant among the measures for state rehabilitation. It was an effective device for the repression rather than for the maintenance of governments in the South of republican form. This proscription was enacted on July 2, 1862. It should have had no force after peace came. It is known as the "iron-clad" oath. It reads as follows: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or

purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

Early in the civil war period, political test oaths became a pre-requisite in all matters of public business and engagements. During the reconstruction period these oaths, and especially the "iron-clad," permeated like a fatal leprosy all attempts in the South to reform the codes of states and the courts of justice. Long years after the war a fair jury trial was well-nigh impossible in the Federal courts in that section, because of such oaths being required of jurors. Before the enactment of the "iron-clad" oath, namely on June 17, 1862, an act "defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States Courts," was passed by Congress. This act established as causes of disqualification for such jurors, on which they might be challenged: First, "Without duress and coercion to have taken up arms, or to have joined any insurrection and rebellion, against the United States." Second, "to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person or persons whom the person giving such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist with force of arms, the execution of the laws of the United States, or whom he had good ground to believe had joined, or was about to join, any insurrection or rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States, and to have counseled and advised any person or persons to join any insurrection and rebellion, or to resist with force and arms the laws of the United States."

This act prescribed an oath or affirmation expressly negativing these disqualifications. It authorized the United States District Attorney, or his assistant, to move, and the court in their discretion to require, the clerk to tender that oath to each and every juror summoned to serve as such, and to every talesman also. Any person declining to take the oath was to be discharged by the court from serving on the grand or petit jury, or *venire*, to which he was summoned.

The 3d of June, 1879, found the author still appealing to Congress for that relief from such tests which did not come until some years after, when Judge Thurman's bill became crystallized into law. Any complete indictment of the party of reconstruction must contain this count, to-wit: it made a just or fair jury trial impossible. It is one of the comprehensive remarks of DeTocqueville on our institutions, that "the people gave legislative and executive power, as well as franchises, to jurors." He associated public freedom with the sacred right of trial by jury, and in their union he found the democracy of America. Therein is the directing power of our government, shining through all its forms. In thus defining the "spirit of the laws," he followed the eulogy of Montesquieu and the unstinted praise of

Coke and Blackstone upon the jury system. Alas! for the great hiatus in our history, when his unstinted eulogy was bitter irony. But we had the free jury system when the philosophic Frenchman wrote his volume.

Wherever this system has been transplanted it has grown. It has rarely, if ever, been given up where once planted. France got it out of the very stones and bayonets of the barricades of 1830, and still holds it. The writer has seen its utility exemplified even in Algiers among the indigenes. Belgium in 1830 rose in insurrection when it was interfered with; that country was severed in twain for its vindication. The jury system is both the cause and proof of civilization and liberty. Indispensable to the democracy of the jury-box is the removal of physical force, supple servility, and proscriptive laws. Yet, to advocate a repeal of these political oaths, with a view to the restitution of fair jury trials and fair voting, was long accounted disloyalty by the party that prescribed such impossible tests. There was no disqualification so obnoxious and harmful as these oaths. They were the clumsy and rotten buttresses of arbitrary power.

Shortly after the reconstruction measures began their baleful operation, the author introduced a bill to eradicate the whole test oath system, not merely in its application to juries, but to all offices, including that of congressman. It provided—"That the act of Congress entitled 'An Act to prescribe an oath of office, and for other purposes,' approved on July 2, 1862, and so much of the provisions of section 1756 of the Revised Statutes of the United States, and all other sections thereof, which provide for the enforcement of the provisions of said act of July 2, 1862, be, and the same are hereby, repealed; and that no person shall hereafter be required to take the oath therein prescribed as a condition precedent to the holding of any office or to serving as a juror, or to the acquirement of any right under the laws of the United States."

In a speech which the author made on Feb. 1, 1871, on the subject of "Familiar and Frequent Oath-Taking," he discussed the general question. This subject was suggested by Jeremy Bentham's queries: "The oath implies neither faith given nor faith received. Why, then, require it? Why take it? Why this farce? Judges and legislators amuse themselves with destroying it." There was then pending a bill which prescribed an oath to be taken by persons who participated in the rebellion and were disqualified from holding office by the Fourteenth Amendment. That bill became a law on Feb. 15, 1871. It was a Republican measure. It was a partial measure, intended to melt down somewhat the iron-clad oath. It relieved from taking the iron-clad oath only those whose disabilities had been removed by Congress, while for those who were innocent entirely of the rebellion, strange to say, that iron-clad oath remained long after in force to test their loyalty in the past! The following is the oath as modified by that bill and embraced in section 1757 of the Revised Statutes:

"I, A. B., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

This modification extended only to the matter of qualifying for office. It did not apply to a jury test, nor in many other matters under Federal jurisdiction. Yet it was an advance toward that concession of equal rights which can alone maintain free republican government.

What a mockery were these war oaths! The history of political oaths is a history of oath-breaking. They were as cheap as those proverbial of the dicer or the custom-house. There is no end to subterfuges in swearing. As the Spanish proverb has it: "He who made the law made also its evasion." Robert, King of France, saw men forsworn upon the relics of the saints in their wagers at law. Being of a religious turn, he caused an empty reliquary of crystal to be used to lessen the guilt of perjury! Where there are changes of political sovereignty, where men have to swear one day to one ruler and the next day to another,—what sort of sanctity can belong to such affirmations? There ought to be empty reliquaries for such oaths. It is a white rose to-day, and a red to-morrow. It is the king, the assembly, the consulate, the monarchy, the republic, the empire, and the republic again.

Talleyrand swore thirteen times to his allegiance, from the pontificate of Clement XIII., on taking priest's orders, down through half a century of revolutions, ending with the accession of Louis Philippe, who was crowned in 1830. The advancement of intellect and the progress of opinion made sworn declarations of political faith and loyalty a shame and scandal, if not a jest, long before our tests. Bentham called those who required them "corrupters of their country." Did not the Saviour reprove the convenient consciences which are solaced by such makeshifts? "Woe unto you, ye blind guides, who say, 'Whosoever shall swear by the temple it is nothing; but whosoever shall swear by the gift of the temple, he is a debtor.'"

Too frequent oath-taking creates demoralization; it is barbarism, and should be decreased, if not abolished. All political oaths, whether promissory or retrospective are destructive of freedom. An oath which would turn intelligent, honest men out of the jury-box strikes at the very nerve-centre of society. And yet for years our people were denied trial by a fair jury of honest men, selected without reference to their political faith and devotion in former years.

There was a bitter contest in England after the revolution of 1640. It turned upon an oath. It was not merely prelacy, or the wearing of the surplice, or the use of a liturgy, or the Book of Common Prayer, or the sign of the cross, which tried the soul of Richard Baxter and others like him, who

would not conform to the established church. It was the "*et cetera*" oath. It had a clause from which it was named: "Nor will I ever give my consent to alter the government of the church by archbishops, bishops, deans, and archdeacons, etc., as it stands now established and ought to stand." This was an oath promissory; an oath binding fallible men never to change opinions. It included in it the *et cetera* — no one knew what. An oath thus indefinite was the essence of folly and despotism. Instead of helping the prelacy to be unchangeable, the *et cetera* oath roused up the Baxters of that day to resist. It became an advantage to the cause of dissent. The Long Parliament seized upon it, along with the ship-money question, to vindicate freedom and inflame the people against royalty. Puritanism thrived upon that insane proscription. Pym, Fiennes, Digby, and other Puritan heroes of Parliament thundered against it. After the restoration other oaths were enacted. Those in the service of the church were required to promise subjection to the canons, and to abjure the solemn league and covenant. They were required to renounce the right of taking up arms against the king and his officers. By this test the English Church lost two thousand of its best ministers. Still another law was passed, requiring of ministers an additional oath, and providing that if they refused to take it they should not come within five miles of any city or corporation, or any place where they had lived or which sent burgesses to Parliament. This is one of the oaths: "I, A. B., do swear that it is not lawful, upon any pretense whatsoever, to take arms against the king; and that I do abhor that traitorous position of taking arms by his authority against his person, or against those that are commissioned by him, in pursuance of such commission; and that I will not, at any time, endeavor any alteration of the government, either in church or state." Some clergymen took this oath under duress. Those who refused had often no subsistence for their families in the strange country places to which they were expelled. "No severity," says Hallam, "comparable to this cold-blooded persecution had been inflicted by the late powers even in the ferment and fury of a civil war." All sorts of subterfuges and reservations were resorted to, to take the oath and not feel it binding in a certain sense. It was a fruitful source of prevarication and perjury.

In the persecutions under this oath, and while Sidney and others were falling under the axe of the despot, the leader of non-conformity, Richard Baxter, fell under the tender mercies of Jeffreys at Westminster. That judicial fiend was well selected to execute such laws. Never in the career of infamous judges has there been anything to compare with his brutal treatment of this meek and just man. "Does your lordship think any jury will pass a verdict upon me upon such a trial?" asked the author of the *Holy Commonwealth*. "I'll warrant you," answered Jeffreys; "don't you trouble yourself about that." The packed and corrupt jury, summoned to do the bidding of the obsequious tool of an infamous ruler, laid their heads together and

found him guilty without leaving the box. Out of the ordeal of such odious oaths and mock trials sprang the noble army of non-conformist confessors, whose labors and sufferings gave to them an immortalization on earth by the muse of history, and to their immortality in heaven the beauty of holiness which was their "saints' rest" forever. It gave that grace and spirituality to the better part of the Puritan character, of which there is so much just boasting in our own country, and that, too, on the part of men who have forgotten the shining example of their ancestors.

Is it not a sad, almost savage satire on these staunch men of spiritual faith and austere manners, that their "stalwart" descendants in the New World were the loudest leaders in perpetuating the same system of proscriptive oath-taking and mock-jury trial which gave to England her revolution of 1688, and to America her earliest and bravest lovers of liberty? These old test oaths drove many a Puritan, Quaker, and Catholic to the New World. It was reserved for their descendants to re-enact them here in the noon of our own century, not only to affect religion and state, but to inflict penalties and perpetuate hatred. Where was that old Puritan spirit which led to the abolition of the Star Chamber, the High Commission, and the Council of York, and which demanded the execution of Strafford and the king, and which always held to the Petition of Right as a palladium of English liberty? Where that spirit of parliamentary courage which arrested the attempt of the king upon the Commons, when he strove to suppress Wentworth and to arrest Hampden, Pym, Holles, Haselrig, and Strode for high treason, because they spoke for the Great Charter — the Petition of Right and the privileges of the Commons? Where the Puritan nerve and spirit which resisted the attempt of the king when he came to the Commons to demand the five members, with his guard of pensioners and tories, exclaiming that he would not break their privileges, but that treason had no privilege? He found that his birds had flown, and retreated ignominiously from the Commons, saluted with the cry,—"Privilege! privilege!" This was at a time, too, when the axe hung over the heads of outspoken Puritans.

The writer would neither derogate from the Puritan character, nor unduly exalt it. Enough remains of the history of the Puritans of New England during the many years preceding our own Revolution, to show that the spirit of Pym, Hampden, and Wentworth was instinct and alive in the Warrens, Adamses, and Hancocks of our early days. But, alas, how their descendants degenerated in our later troubles! They cannot read without a blush, the history of the test oaths which they placed on our statute book, even on "revision," and their laws for the use of the army to control civil affairs and override local rights. They were not merely the passive instruments of their enactment and execution, but the active advocates as well.

When Macaulay described the Puritans of old England as "looking down upon the rich and the eloquent, upon nobles and upon priests, with contempt,

esteeming themselves rich in a more enduring treasure, and eloquent in a more sublime language — nobles by the right of an earlier creation, and priests by the imposition of a mightier hand," — could he have dreamed that out of a civil war in this land, this domineering element, so proud and great, would fall so far as to keep on the statute book, tests, pains, and penalties which France, Turkey, Russia, and even Asiatic and African barbarians would be ashamed to defend? What history has not been written, what poems not sung, in praise of the heroic Puritan element, yet how ignoble their descendants seem when such proscription and bigotry are exposed!

In Great Britain there has been much progress in dispensing with oaths, and in their simplification. Many ecclesiastical as well as civil oaths have been abolished. As to the former, the old oath still remains in regard to the doctrines, prayers, and sacraments of the established church, and against simony and stipends. The act of 31 and 32 Victoria shows a most enlightened progress, from which we might have drawn valuable lessons. Compared with our verbose, vindictive, and ridiculous "iron-clad" oath, the oath it prescribes is a model of brevity and sense. It reads: "I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law: So help me God." Our constitutional oath is more concise — "I swear to support the Constitution of the United States: So help me God."

The modern English official and judicial oaths are in the same pithy style. A schedule of the officers who are to take them is appended to the law. They are few in number. The wisdom of Parliament is further shown by the reduction of wholesale swearing at the custom-houses and elsewhere. The oath for hosts of officers and objects is repealed and a simple declaration is substituted. The oath for members of Parliament is fixed by the act of April 30, 1866. It is nearly as simple as the one quoted. For the failure of a commoner to take it, there is a fine of £500, and a further penalty "that his seat shall be vacated in the same manner as if he were dead." Even this oath is practically obsolete. The expulsion of Mr. Bradlaugh on June 23, 1880, for refusing to take it, will recur to the reader; and also his re-admission, five days after, without the oath, by a vote of 303 to 249. The schedule to this act contains a long list of acts from Charles II. to its date, which were then modified or repealed. They constitute a terrible catalogue of bigotry as discreditable to England as their repeal is praiseworthy. Some of these oaths had remained obligatory from the time of Elizabeth. They were prescribed against the Catholics. The act of supremacy was amended in 1673. It also was framed to exclude the Catholics; but it had a similar bearing against all dissenters. It increased the confusion and contention of the troublous era in which it was passed; but it was consumed in the keen blaze of our nineteenth century, with the *débris* of intolerant ages. Along with it fell many politico-religious tests. The Thirty-nine Articles are no longer to the Jew

a stumbling block, nor to the Baptist foolishness. A new era of "reform" and "emancipation" opened in the time of George IV. Not only were the Catholics relieved of their disabilities, but also "every person of the persuasion of the people called Quakers." By three repeals the disabilities of that chosen and eternal race of races, the Hebrews, were removed, and declarations were substituted in lieu of oaths. Yet with this light radiating from the English legislature, we, who vaunt so much of liberal progress, groped in the darkness of her oath-proscriptions until the closing year of our last decade.

An English writer insists that one-half of the oaths taken in the courts should be dispensed with, including all promissory oaths as to the performance of duty. He would increase penalties for falsehood, while diminishing oaths. The manner of administering oaths has much to do with their strength or feebleness. How often was the oath of allegiance made ridiculous during our war! A cavalry company dashes from house to house, and swears the rebels in. It is followed soon after by a company of rebels, who swear them out. At breakfast, dinner, and supper, over "hard-tack" or corn *pone*, night and day, when the swearer was in the humor, off he dashed after a "disloyal" victim. One who had that line of patriotic duty in charge has given the writer an example of administering that oath which illustrates this point: "You do solemnly swear (Look here! take that cigar out of your mouth!) that you'll bear true faith and allegiance to the United States of America; that you'll serve them honestly and faithfully (Stop that d——d talking in the ranks!) against all enemies and opposers whomsoever; (Johnny, bring me that demijohn!) that you'll observe and obey the orders of the President of the United States, (Take off your hat, and keep your hand up!) and the orders of the officers appointed over you: So help you God. Now,—git!"

This kind of swearing was not peculiar to our war period. Dickens gives a similar mode in the English courts. A constant habit of administering the same oath naturally begets this unpunctuated and mingled monotone of indifference and frivolity. It is like Chaucer's monk, who forever repeated the same few terms—"learned out of some decree."

One of the peculiar features of the "iron-clad" is that it compels a person to swear that while he is taking the oath he is not forswearing himself; for example, that he has no mental reservations, that he is playing no sleight with his conscience, no thimblerig with words. He is sworn that while he is swearing he is not lying! The author has at hand another illustration of a peculiar mode of swearing. It is an oath which reserves so many conditions and qualifications that it nullifies itself. Carleton publishes it of one of his Celtic characters, who is urged by his good priest to take a pledge against intemperance. The affiant went to the schoolmaster of his village and had the following drawn:

"Oath against liquor made by me, Cornelius O'Flaherty, philomath, on behalf of Misther Peter Connell, of the Cross Roads, merchant, on one part, and of the soul of Mrs. Ellish Connell, now in purgatory, merchantess, on the other.

"I solemnly, and meritoriously, and soberly swear that a single tumbler of whisky punch shall not cross my lips during the twenty-four hours of the day, barring twelve, the locality of which is as followeth:

Imprimis — Two tumblers at home,	2
Secundo — Two more ditto at my son Dan's,	2
Tertio — Two more ditto behind my own garden,	2
Quarto — One ditto at the Rev. Father Mulcahy's,	1
Quinto — Two more ditto at Frank McCarroll's, of Kilclay,	2
Sexto — One ditto wid ould Bartle Gorman, of Cargah,	1
Septimo — Two more ditto wid honest Roger McGaugy, of Nurchasey,	2
	12

"N. B.—I except in case any docthor of physic might think it right and medical to ordher me more for my health; or, in case I could get Father Mulcahy to take the oath off of me for a start, at a wedding, or a christening, or at any other meeting of friends where there's drink."

The author does not know whether congressmen would make these extensive reservations. The reader probably knows how recruits were sworn, and how they were prepared for the battles of the Republic. No custom-house officer ever administered a stressless oath with more haste and nonchalance than do some of our courts. Who feels the binding force of such an oath? Who is not shocked by the irreverence and frivolity? Such trivial and frequent swearing is no swearing at all; and, by extremes, it violates the Bible command, "Swear not at all!" It reminds one of the man who was swearing loudly to Hercules. His companion said: "Do not call so loud, or the god may hear you!" Our statutes groan with oaths at every page. Like the ghost in Hamlet, they say: "Swear!" "Swear!" They should evanish with the dawn. Governments condemn Thugs, Carbonari, Ku-Klux, Nihilists, and secret societies generally, for their mystic oaths. Let governments set a good example and abolish the custom. The wisest writers hold oaths to be repugnant to the Christian religion. Bentham wonders why, under such a religion, oaths should be so common. The answer is not complimentary to our civilization. In earlier days, society was cemented by solemn oaths. Liberty was assured, as in Switzerland, by an oath. Patriotism, is sometimes nerved and obligations sanctified by a solemn oath, when the bonds of society become loose and require tightening. But what a farce is constant swearing! When it was so general in England, the

traveling Briton was everywhere on the continent designated by his own shortest and commonest expletive.

There has been much metaphysical discussion as to the definition of an oath. Is it a religious affirmation or an invocation to God as a witness? Is it an imprecation of the vengeance of God upon him who swears falsely, or a mere promise? What was the custom and law of the Jews? The word often used in the Greek version of the Testament interprets one meaning of an oath, ἐξορκίζω—"I adjure thee"; "I call on thee to declare the truth." The corresponding Hebrew word is שבע. It signifies at all times and places in the Jewish history an adjuration. From Genesis to Revelations it is the same. The majesty of the adjuration, used by the high priest to evoke the truth, is not lessened by too much frequency. There was no frivolity in its administration. The New Dispensation discloses another custom: "Let your communication be yea, yea, and nay, nay; for whatsoever is more than these cometh of evil!" Many sects besides the Anabaptists, Moravians, and Quakers hold that to take an oath is an abuse of the name of God. Calvin said that there was no need of such a superfluity of oaths. Therein he followed the Christian fathers. Augustine sums up his creed in these words: "False swearing is fatal, true swearing is dangerous, swearing not at all is safe." Chrysostom, of the golden mouth, said that "swearing took its beginning from want of truth and punctuality."

Classic literature, like our Reconstruction acts, is full of oath-taking. Homer's heroes, like the army in Flanders, swore terribly. Even Helen swore. She swore fidelity to Menelaus. We know how she kept her oath. The immortal gods swore by the waters of the Styx. The classic swearing was done by attesting and imprecating in the name of the gods. During the Commonwealth the Romans swore by their swords. Under the Empire they made their sacraments in the name of their Cæsars. Numa swore by the goddess Fides, while now and then a warrior swore by the quiver of Diana. The Egyptians swore by cats, dogs, snakes, crocodiles, baboons, and onions! Sometimes the ancient soldiers killed a bull, dipped their hands in his gore, and, like other valiant men, swore to Bellona to do brave deeds. In China a saucer is broken, and they swear to be broken like it if they lie. In India they cut off the head of a cock, with the same sort of imprecation. Some Hindus swear by holding a cow by the tail — that useful beast being sacred with the Brahmins.

All through history, from Justin Martyr down to George Fox, Christian men have suffered death at the stake, and imprisonment often, because they would not swear. After the Restoration in England, three thousand and sixty-eight Quakers went to jail rather than give up their non-oath-taking tenets. But of all the oaths, the one most repugnant to good sense and conscience is that as to civic conduct. When we recall to mind how Harold swore to William of Normandy that he would renounce the crown, and then

began to rebel; how King John and his son Henry swore an oath to uphold Magna Charta, only to break it; and Cromwell, to keep Parliament in session five months, only to break it, then we perceive how cheap oath-taking of this kind is. But what shall be said of tests in the form of oaths as to past opinions and conduct, and as to countenancing and comforting a lost cause! By them a man was required to perjure himself, or be shut out from jury service and official duty. The tests made him the pariah of society.

When we consider how many cunning devices are resorted to for evasion, as by kissing the thumb instead of the Book, and how many lies are told which, as Coke says, "concern not the suit, and therefore are extrajudicial," and upon which no perjury can be assigned, may we not conclude that these makeshifts contribute to lying? Do they not belittle an oath that should be solemn? Is not this the effect of frequent and familiar swearing? Do not frequent oath-takings dishonor society, and government — its agent? Do they not call down religion from its heavenly home and drag it into the mire of human depravity? Do they not, therefore, corrupt the very well-springs of truth and justice?

It was because these proscriptive oaths were the Federal test for jurors and office-holders, and because they were a portion of a system of demoralization and barbarism, that the writer introduced the bill for their abolition. He would go further and abolish all political retrospective and promissory oaths. No fear of revolution, no timidity about coercion, would for a moment deter him from following a policy which would save society from that reckless invocation of the Divine Majesty which is so often used on the occasion of oath-taking. Is it not appalling, that upon so many trifling occasions we call upon the sacred name of God, and dim that effulgence which emanates from the promise of His word by contamination with the imperfections and vices of men?

Since the close of the Civil War the writer recalls but one statutory oath that may be regarded as having been framed in charity toward an erring brother. That oath was prescribed by the act of Congress of June 1, 1872, and is contained in sections 1042 and 5296 of the Revised Statutes of the United States. These sections provide that a poor convict who has been sentenced by any court of the United States to pay a fine, or fine and costs, with or without imprisonment, and has been confined in prison thirty days solely for non-payment of the fine or costs, may, upon application in writing to any circuit court commissioner in his district, setting forth his inability to pay the fine or costs, be admitted to a hearing before the commissioner for the purpose of showing his inability to pay, and that he is without property exceeding twenty dollars in value, except such as is, by the laws of his state exempt from being taken in execution for debt; and that upon satisfactory proof to the commissioner he shall be discharged on taking the oath mentioned, which reads as follows: "I do solemnly swear that I have not any

property, real or personal, to the amount of twenty dollars, except such as is by law exempt from being taken on civil precept for debt by the laws of the State of ————; and that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use or benefit. So help me God."

Not one of all the oaths ever recorded in sacred or classic lore, or propounded in any land, for political, religious, judicial, martial, or festive purposes; whether for jurors, witnesses, or officials; whether at custom-houses or at marriage rites; whether to suspected patriots or supposed traitors, from Noah, who took the first oath, down to the cloud of investigation-committee witnesses, surpassed our "iron-clad" oath for the ridiculousness and variety of its application, save one only. There was one exception perhaps; and that, too, in our own country. It is to be found in the Missouri constitution made by Republicans just before the end of the war. That oath illustrates the fact that there are some laws and some men who, to carry out their grudges, defy the everlasting order and congruity of things. It is enough to condemn the party which made it to an eternity of infamy. Luckily, as shown in a former chapter, the Supreme Court of the United States pulled it up by the roots. Although it remained in force for five years to blot the organic law of a great and growing state, and although its provisions again and again were used to give to a small minority of the people of Missouri the ruling power, yet at last its authors hid from public execration, and the oath was stamped out by the decision of Mr. Justice Stephen J. Field, in an opinion which adds to his fame as an enlightened and liberal-minded jurist.

Well did these vile bigots of Missouri understand that whole classes of good citizens would be unable to take the oath they prescribed, and be incapable of jury or any other duty to society or to the state. But, comforted and protected by the proscriptive bigotry and hate of Congress, with its "iron-clad," they disfranchised the majority of the state. How was the Missouri law executed? It was not in the ordinary sense a law. It had not the excuse of legislative inconsiderate haste. It was made a part of the fundamental constitution of a great state. It had not even the flimsy excuse of Protestant bigotry against the Catholic faith. In some counties Methodists as well as Catholics were indicted, tried, and convicted for preaching Christ's gospel of love; because, like Richard Baxter, they would not commit perjury or conform to the oath. These men had been preaching that gospel for years; but no amount of work in the vineyard of the Lord saved them from the remorseless clutch of these self-righteous "loyal" Pharisees. True, this constitutional clause was not directed against the body. It did not use torture, rack, and thumb-screw. But it was a radical ukase against the sacred conscience of man — a torture of the soul — a devilish plot against the ministrations of religion and the teaching of all classes of mind. It was worse than barbaric. It was worse than the worst of the Federal proscriptions.

In the recent wars of Europe the red-cross flag of Geneva, with its white ground of charity, gave immunity to those who cared for the sick. It alleviated suffering and saved life. It earned the blessings and gratitude of all. It gave laws of kindness to war. But this infamous Missouri oath, which stopped the physician in his round of duty to the sick and dying, and the priest in his consolations, would have hauled down the red cross of Geneva. When it did not imprison the clergyman in his home, it did worse; it consigned him to the common jail. It was worse than the "five-mile act" of Episcopal bigotry against the Dissenters. How was it executed? Let one instance illustrate. The radical ghouls of Cape Girardeau County, Missouri, indicted under this law the Sisters of Charity who taught in a convent. Three of these angels of mercy were dragged into court, and tried for not having taken the oath it prescribed. And — will it be believed now? — the foreman of the grand jury sent his own child to the convent to be taught, so as to get proof of the teaching, and thus to convict! In that case, however, public opinion revolted, and the Titus Oateses of Missouri hid their heads for a time from public opinion; but not without leaving their proscriptive meanness as an evidence of how far degeneracy could go from the days of Pym and Hampden, Baxter and De Foe. They left imperishable evidence of their unfitness to live as co-workers for good in human society. If these Sisters of Charity and Mercy, the Florence Nightingales of our conflict, have passed from earth and found their beatitudes in that azure sheen where walk the pure, white-handed in celestial light, singing the praises of the Saviour they served here among men, with what pitying eyes do they look down upon the foolish and spiteful human craftiness which sought to break the blessed utility and unity of their lives by such a relentless persecution! Language has no vehicle of expression, the mind no idea, fit to tell the burning shame which should blister forever the cowardice and cruelty of a test so odious and hateful as that of the Missouri oath.

Sergeant Talfourd, in his *Ion*, describes the solace and comfort of those who by humane endeavor mold their lives into benevolence. But these radical constitution-makers and executors of infamous statutes arrested and imprisoned even sisters of that order of charity which has gladdened our sad world by its merciful ministrations. Names of this sisterhood are not sounded by the brazen trumpets of publicity, nor mingled with the notes of sectarian discord; yet they are found on the criminal records of radical Missouri — the disgrace of our generation.

What execrations are not due to those who persecuted these loving laborers? From the earliest centuries after Christ, when the noble Roman lady, Paula, took up her residence in Bethlehem, to care for and comfort the sick; from the time she "laid their pillows aright," as the old chronicle tells us, and felt that the less service she did to the sick the less she did to God; from the time of this first Sister of Mercy down to our day, when the kind *Sœurs*

Hospitalières of France, *Beguines* of Flanders, and the Sisters of Elizabeth in Germany, in their black gowns and white hoods, their complacent sweetness and holy living, gave to the stricken their self-devotion, so nobly illustrated by Florence Nightingale and her company of noble women, whose only desire was to go where suffering and perils were greater, — no one had ever dared to lay secular or rude hands upon one of this Sisterhood.

Who would have thought, at the close of our Civil War, when the bugles had sounded the long truce and war-broken soldiers were left stranded in the hospitals, that there was one being in human shape who could be so regardless of those gentle sisters who had shown such self-abnegation, as to persecute them as outlaws of society? Had they not bent over the wounded and the sick "when pain and anguish wrung the brow," and whispered low the words of peace, patience, and divine hope, while smoothing the pillow and holding the cup to the parched lip? Had they not aided the healing power with angelic cheerfulness, and by their softening and purifying presence given good impulses and holy thoughts to the sick and dying? Why, even the Robespierres and Dantons, and the very devils of the French Reign of Terror respected this Sisterhood. They were recalled by a special decree of the republic, which recited their boundless love and charity; and their faithful head, "Citoyenne" Duleau, was given new authority to practice their beautiful vocation. But had this French sisterhood lived in Missouri and given their angelic sympathy and good offices to the wounded rebels, fine and imprisonment would have been their punishment. The very fiends of the Reign of Terror put to shame these bigots of our day and generation! In only one other state did radical proscription go thus far. In West Virginia the constitution forbade any one to teach school who had not taken an oath of loyalty. Girls of fourteen were suppressed as teachers under this policy of spite.

The Supreme Court has more than once passed on the iron-clad oath. In the case of Mr. Attorney-General Garland, already referred to in another chapter, who desired to resume his practice in the Supreme Court of the United States, the same principles as those asserted in the Cummings case were vindicated. The Court allowed him to resume his practice in the United States Courts. By a law passed on the 24th of January, 1865, the iron-clad oath had been extended to the attorneys of the courts of the United States. But the Court held that the oath prescribed operated as a legislative decree of perpetual execution, and was *ex post facto*.

The repeal of the proscriptive statutes, which clouded our Federal system, was a paramount duty. The Democrats sought to recrown the discrowned majesty of the people, and to enthrone the states in their proper relation to the government, and thus reset and repolish the jewels of popular sovereignty. With what success?

The reader may well ask, was this discrowned sovereignty rehabilitated?

Only after many efforts was this done. The lower House of the Forty-eighth Congress, at its first session, passed the bill of the writer — by a two-thirds vote. It was a general bill. It had the sanction of the best lawyers, such as Judge Poland. But the Senate was reluctant. At last, however, the matter was compromised. Something was gained, but not all. Senator Garland — whose magnificent efforts in behalf of this amnesty were his crowning glory in Congress — advised the author to take what the Senate sent as the best possible to be then and there had. The bill repealed the iron-clad oath and the jury test oath. It was approved by the President, May 13, 1884 — almost two decades after the war was over. It took away many of the gross absurdities of the law. It retained one, however. It amended section 1218 of the Revised Statutes, so as to read — "No person who held a commission in the army or navy of the United States at the beginning of the late rebellion, and afterward served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the states in insurrection during the late rebellion, shall be appointed to any position in the army or navy of the United States." Still proscriptive! The commissioned officers are still under the ban.

The great trouble with the policies of the Radicals was that they were framed in suspicion of all the people South and of all party opponents North. The Radicals forgot the motto of the Italians: "*Sospetto licenzia fede.*" If they had not the spirit of kindness toward others, they should not have been cruel to themselves. As Sir Thomas Browne said of revenge, "It only feathers the arrow of the enemy"; so the same may be said of ignoble suspicion. It destroys all that is knightly and magnanimous. There is no lack of wisdom or patriotism in following the precepts of history as to clemency. They teach that revenge is injustice, and that it hurts most those who indulge in it.

Twenty years have passed since the war was closed. It is high time that all sectional proscriptions, prejudices, and animosities should cease. We have felt — those of us who are Northern Democrats — that a great wrong was done by this long delay in healing the wounds of the war. Let us now draw the curtain upon sectional wrongs. It is for us to have our brothers as our equals, to harbor no spirit of separation, distrust, or enmity. Let us be bound and solidified by one Constitution, for one inseparable Union, and under it, for the untrammeled will and rich heritage of its past wisdom and glory. If we must have a test of loyalty, let us swear to each other by every star upon the blue field of our ensign, by the white radiance in which all colors, red, white, blue,— aye, and gray,— blend as one; not, as in the old Italian code, by the God who avenges, but as the old Anglo-Saxon kings were adjured, by the grace and mercy of His Son — that good-will and full amnesty shall be the spirit and aim of our legislation, in state and Nation!

CHAPTER XXXV.

POLITICAL CAMPAIGNS AND ISSUES UP TO 1876.

THE CONTEST OF 1864 — McCLELLAN AND LINCOLN — MILITARY AND CIVIC VIRTUES IN ISSUE — ARM-IN-ARM CONVENTION — 1868 AND ITS ISSUES; — GOVERNOR SEYMOUR — HIS SPEECHES AND CONDUCT — THE PATRIOTISM OF THE DEMOCRACY — INCREASE OF OUR AREA AND POWER UNDER DEMOCRATIC ADMINISTRATION — THE NUMBER OF DEMOCRATIC VOTERS AND SOLDIERS — SEYMOUR DEFEATED — JUDGE BLACK ON THE CARPET-BAGGER — HORACE GREELEY TRIED, AS A BRIDGE FOR HONESTY AND AMNESTY — GREELEY'S DEFEAT ON AN INCREASED VOTE — OTHER QUESTIONS OF FEDERAL LEGISLATION — CIVIL RIGHTS — ECONOMIES — CURRENCY — BAYONETS AT THE POLLS — ABRAM S. HEWITT'S SPLENDID CHAMPIONSHIP OF FREEDOM *VERSUS* FORCE — ENGLISH STATUTES AND LAW ON THE SUFFRAGE — ABOLITION OF MILITARY INTERFERENCE WITH ELECTIONS.

IN November, 1864, the Republican party was called before the people, in the election of a President. Its choice was Abraham Lincoln. General McClellan represented the Democracy. The campaign was that of a soldier with civic graces against a civilian with a military policy. The Democrats discussed General McClellan's treatment by the Administration. Had he not been the saviour of the capital — a second Sobieski, and treated with the same indignity? Were not other Democratic generals ignored? Were not the confiscation policies cruel? Was not the destruction of the Union sure, if the Republican plans of reconstruction should be carried out?

These were the primates in the procession of ideas in 1864. But the main points for McClellan, whose nomination at Chicago was seconded by the author, were these:

1st. That his policy was the only correct and constitutional one for the conduct of the war. 2d. That had it been adhered to, the war would have been closed and the Union restored. 3d. That owing to the President and his advisers, the fruits of his victories were resultless, and the victories themselves were snatched from him by their intermeddling.

Amidst the feebleness and fickleness of the Administration, the wavering support of the President, and the persistent opposition of the Republicans, the fear, vanity, and trifling of those in power, the daring interference and secret persecutions of those who could not understand his plans or were determined to foil them — McClellan came before the convention refined from the fire. Calm, vigilant, without rest, yet without haste; clear in conception, vigorous in action, with a grasp of mind and comprehension of intellect possessed by few; with a power to organize confessed by all, and a power to execute rarely equaled, he presented the type of a conservative soldier whose views of political necessity far outshone the disjointed ideas of the fanaticism of the day. Such a man was this hero of the people. He had no interest to subserve but that of his country.

He was selected by the Democrats because it was their impression that, if unhindered, he would have ended the war in 1862. A record of that wonderful year, with his general plan to strike all around at once; his movement in February, forced by the President, when it was impossible at that season; his protests; his salvation of Washington; the battles of the Seven Days and his campaign in Maryland; his cruel and shameless recall on the 10th of November, 1862, while moving after the defeated enemy; — all these vindicated him as the then best known soldier of the Republic. These were evidence to the country that the radicals had determined to prolong the war until the last measure of their policy should be carried out.

What, then, was the remedy? If the American people desired peace with union; a Union strong in its members — a permanent Union of states assured of their dignity and equality, they must defeat the Republican party, and elect McClellan; they must prefer Democracy and its principles.

To this end the Democracy, in their platform of 1864, proposed by all peaceable means to negotiate for reunion. An armistice was not necessary to open negotiations. "Let commissioners be appointed," said the Democracy; "let a Democratic President proclaim the illegal proclamations of his predecessor null and void; let the sovereign people of each sovereign state send their wisest men to a grand national council, and there take steps toward the rebuilding of the shattered system." "Let this be done," said the Democracy, "and three months will not elapse before the hosannas of a generous and Union-loving people will hail the advent of peace as if it were the coming of a new salvation to our world!" Well, did Southern papers, in anticipation of such a time, prophesy that the accession of a conservative Democrat like McClellan, who would repeal the obnoxious proclamations, and make overtures to the South to return, with a guarantee of constitutional rights, be the paralysis of secession, and the elevation of a party to power invincible for the Union! The Democracy could then alone have established peace with Union. That they would never consent to a peace based on separation, is as true as that they never

would have used their power for a war of subjugation. Anxious for peace, and ready to hail it as a permanent condition, their legend was: "Peace, Union, and Fraternity."

On these issues, and in that campaign, the Democratic party was defeated and the Republican party was sustained. Passion was rife; more blood must flow. The slavery extremists brought on the war — what matter how? "Slavery must die the death of violence. Peace with slavery can never be in the American Union. Perish the Union rather than that," is the verdict, North. "Peace and Union without slavery can never be," is the cry of the extremist, South. Democracy submits, and says to its sons: "The Union shall not perish from the Earth." "We love not slavery — let it die the death" — "Save the Union!" "Save it — but bind in with your laurels of victory the olives of peace and reconciliation."

Since the war, there have been five Presidential elections. In four of them the Democracy were worsted. In the fifth and last one they came out the victors. It does not matter to the present generation, nor to posterity, what persons succeeded to the Presidency. The main consideration is that the government should be honestly administered; and that there should be no impediment to the people in their grand march for progress, prosperity, and happiness. Many efforts, such as that of the "Arm-in-Arm Convention" at Philadelphia on the 14th of August, 1866, were made to reconcile by sentiment, what reconstruction was destroying. The political elements were not then ready for consolidation against the iconoclastic majority of Congress. The activity of pulling down had not then ceased. The well-intended attempts of President Johnson and his Cabinet for reconciliation of the sections, in their tour over the Northern states — ostensibly made to be present at the laying of the corner-stone of a monument to Stephen A. Douglas, at Chicago — did little more than fret the body politic. Indeed, they tended to increase the Republican majorities. The radical legislation took a harsher form. The demand to ratify the Fourteenth Amendment and spread universal suffrage came in collision and rode down ruthlessly the impotent vetoes of the President. On the question of military or civil reconstruction, the result is known. It appeared in the act of March 2, 1867. The work for state rehabilitation was retarded. The executive and legislative departments did not harmonize. Supplemental acts came along, producing chaos. Reconstruction, with its temperless mortar, had already begun its incongruous work. Impeachment was threatened and it came. At length the year 1868 rolls round. It is the year for the choice of a new President. Horatio Seymour is nominated on the 4th of July, at New-York City. The canvass creates great excitement. The strife of the war resounds again. It is the old clangor of "closing rivets up" for a desperate encounter. The questions at issue are still those growing out of the war. The platforms are *pro* and *con*, as to the principles and conduct of the Republican party; *pro*

and *con*, as to the conduct of the Democracy on the war measures. The action of the Democracy is roundly challenged. The action of the Northern Democrats in the states which were under the control of Democratic executives is fiercely arraigned; and that, too, in the light of such stirring speeches as Gov. Horatio Seymour made during the war. Did any honest man ever doubt his sincerity and patriotism? Where in all the argumentative urgency of the war period, was a more faithful effort made for the Union and Constitution than is embodied in his Brooklyn speech? It breathed the spirit of patriotism in every line.

When Governor Seymour sent his message to the New-York Legislature during the war, he illustrated by his acts as well as his words, the sentiments of his party. He then said:

"We must accept the condition of affairs as they stand. At this moment the fortunes of our country are influenced by the result of battles. Our armies in the field must be supported — all constitutional demands of our general government must be promptly responded to. Under no circumstances can a division of the Union be conceded!"

When peace came he had a policy of peace. Would it not have been wisdom then, had we accepted him with his policy? Courteous, modest, scholarly, without stain upon his private life, and without taint in his public record, he, better than any one within the confines of the Republic, would have administered its affairs with an eye single to all its interests; and with the sentiment of a patriot who recognizes no flag which has not all our stars upon its field! He lives to a good age, as clear in intellect as when, in 1868, he met the legions of the mercenary party.

But it was not possible then for men like Governor Seymour — men who were devoted to liberty — to make good their protest against the excesses of the party in power, and against the crushing of liberty by the iron hand of Congress, which had not even a velvet glove to hide its despotic grasp.

The Democratic party has often been indicted for its lack of patriotism and for its lack of martial vigor during the Civil War. How false the indictment! It came from a packed jury of public spoilers. When the history of this country's developments is considered, how easy it is to refute such a charge! The expanse of the Republic alone refutes it. Was it not the very first Democratic Administration that purchased from France for fifteen millions of dollars the vast territory of Louisiana? The Federal party opposed that purchase, on the ground that our territory was sufficiently extended, and the cost too great. But out of the vast territory then acquired under Jefferson, what accrued to the Union? Answer — The great states of Louisiana, Arkansas, Missouri, Iowa, Minnesota, Kansas, Nebraska, and Oregon, the Indian Territory, and the territories of Dakota, Idaho, Montana, Wyoming, and Washington. What party was it that in 1819, in the administration of Monroe, purchased Florida from Spain for five millions of dollars?

Answer, again — The Democratic party. Was not this extension of the Union also bitterly opposed by the unpatriotic Federalists? Again, what party was it that in 1845 not only annexed Texas,— an empire itself,— but, after the war with Mexico, gave the great states of California, Nevada, and Colorado, and the territories of Utah, New Mexico, and Arizona to the Union? Answer, again — The Democratic party, in the administration of Polk. Was not the annexation of Texas, and the war with Mexico opposed by the Whig successors of the Federalists? Who defeated the bill for the purchase of Cuba during President Buchanan's administration? Answer — The Republican Senators who were the successors of both Federalists and Whigs.

When prejudices are sought to be aroused against the Democratic party because of its desire for peace in our civil conflict, let it be remembered that, during nearly fifty years of administration, it acquired two million two hundred thousand square miles of valuable arable territory, and that its acquisitions cover two-thirds of our present national area. Compare to these Democratic additions to the Union, Alaska with its higher and uncultivable regions, purchased from Russia for seven millions; — a price not too great, let it be remembered to Mr. Seward's credit. What have these vast Democratic acquisitions done for the national industries in agriculture, stock-raising, lumbering, mining, manufacturing, and the extension of our commerce? Have they not given fields for these pursuits which would never have been opened if opposition to Democratic policy had succeeded? Have not our industries reaped billions of wealth in these fields, yet to be multiplied from billions into hundreds of billions? It is not possible to estimate the grandeur of that development which has come from the large-minded statesmanship of the Democratic party. It does not come well from Republicans to say that the Northern Democrats would for one moment consent to a severance from the Union of any one of these magnificent acquisitions.

When statesmen like James G. Blaine devote their gifted pens and their fluent rhetoric to enhance the advantages to the Nation of these territorial acquisitions, when with pictorial and geographical illustration of artistic shadings he would portray them, let that candor which is so conspicuous throughout his volume take notice that all the credit and glory belong to Democratic administrations. Then, perhaps, he will agree that the map here presented will prove, in some future contest, quite as potential for the historic party as for its opponent, in political philosophy, economy, thrift, and honesty.

When it is charged that the Democratic party was derelict in the war between sections of our common country, let it be answered, that it furnished fully two-thirds of the officers and soldiers of the Union armies. As in the War of 1812, and in the Mexican War, so it sent its legions in that war of the sections. But there was this difference between it and the Republican

party: it was not impassioned against our Southern brothers, and it sank all other considerations in devotion to the Union, and a determination to maintain it as it had come down from the Fathers. If the Democracy had not poured their legions into the Union armies, where would President Lincoln and his Cabinet, and the Congress which met in 1861 have been? If the Northern Democrats were so desirous of a peace with disunion, all they had to do was to remain at home. Would they have accepted such a peace? No! From the beginning to the close of the Civil War, over two million one hundred thousand officers and soldiers volunteered upon the Union side. Two-thirds of them were Democrats. Such a splendid illustration of patriotism, history never before recorded. It was the Northern Democrats who saved the Union.

In spite of this evidence, the elections in the North, up to 1876, turned upon the loyalty to the Union of the Democratic party in and out of Congress. The military heroes who went into secession were glorified in Congress by such orators as General Garfield, in order to derogate from their civil courage and the heroism of the Northern Democracy, during and after the war. Attempts were made to revive the bad blood of other times, or, in the parlance of the day, to "wave the bloody shirt," and thus to regain for the Republican party its hold upon the public esteem, which was gradually loosening by reason of the exposure of its excesses. The Northern Democracy never wavered in their principles. Gallant in the defense of their opinions, they never failed to bear high the flag of the Union, or to show their devotion to the Constitution. In the language of a Southern statesman, who was himself a soldier in the Confederacy: "The South loved the Constitution more than the Union. The Republican party may have loved the Union more than the Constitution, but it will be written in history, that the gallant Democracy of the North were the truest patriots of the land. They loved both the Union and the Constitution, one and indivisible."

This statement might go further, and still be no more than just. Mr. Greeley, in his volume on *The Great Conflict*, informs us that the great body of the men of the South were opposed to secession. The facts and votes to prove this are furnished in that volume. They prove how many of the men of the Democratic party opposed secession and risked and lost their lives for the Union. Who would ignore the McClellans, and Hancocks, and men of less note, who maintained the vigor of our Federal system against secession, and fought for both Union and Constitution? Let others derogate from the Northern Democracy, when arrogating to another party all the praise of quelling the "so-called" heroic rebellion. In 1860 the Democratic party divided, — one great portion of it, under Douglas, representing the Union-constitutional sentiment, with 1,365,976 votes, and the other representing the Southern sentiment, with 847,953 votes. Is it manly, just, and fair to ignore these Democratic soldiers and those who in Congress

voted all supplies to quell the insurgency? When the Democracy were sundered in 1860, was there no patriotic principle for those of the North to guide their conduct? Is it forgotten that the Northern Democracy, in states like Illinois, Indiana, and Ohio, favored Douglas, while the extreme states of the South only were largely for Breckenridge; or that in the three great states of Illinois, Indiana, and Ohio, the whole Democratic vote was cast for Douglas, with the exception of some twenty-five thousand for Breckenridge.

The Southern secession leaders could muster only about one-fifth of the total vote of the United States. The Northern Democracy fought through the crisis of 1860–'61 and the remaining years of trial and blood, as bravely as those from whom they parted. In Illinois, seventy-five votes were given to Douglas to one for his extreme Southern competitor; yet Southern heroism was glorified in Congress by General Garfield in order to detract from his Northern Democratic neighbors. At what particular time, for what reason did such gentlemen learn to love rebellion, that they should make an apotheosis to its heroism? Ah! why? Was it because the Democrats of the North opposed extra-constitutional methods of conscription and confiscation; or was it because, since the war, the Democracy acted on the spirit of forgiveness and favored amnesty, so that all might come back under the shadow of the government? Was it because they sought to make our Southern brethren equals in the Union, when they came back redeemed from their prostration and the oppression of military satraps under reconstruction? Was it because Southern men joined with them in making provision for the back pay and pensions of Union soldiers? Who is sorry that Democracy built up by generous policies the waste places of the South, and made a highway for the people who were wandering in the mazes of test oaths, military force at elections, and supervisor espionage and oppression? Who now would make a desert or an aceldama of the South? Is it honorable to deprecate, denounce, and degrade the Northern Democracy? Does any party need require this? Did the Democracy fail in furnishing troops for the war? Was it a falsehood when a Republican legislature of New-York gave Governor Seymour the credit for even exceeding the call for soldiers? Did Democrats fail to pay their taxes? Did they fail in giving their youth, their manhood, their sympathy to the Union which their fathers loved and to the Constitution which Washington helped to frame? How can the Republican statements be characterized?

There is not a soldier, North or South, who does not refute the slanders of the Republican party leaders against the Northern Democracy. There is not one of the 200,000 crippled and disabled soldiers and sailors, there is not a widow or an orphan upon our pension rolls, whose voice does not vindicate the part which the Northern Democrats bore in the salvation of the Republic; and time itself has vindicated the wisdom, courage, and devotion of their party.

One would have supposed, with such a record of patriotism and with such a candidate as Horatio Seymour, the Democratic party ought to have seated him in the executive chair in 1868. But sectionalism and malevolence were still vital and effective forces. Only eleven states with eighty electoral votes were carried for Horatio Seymour, while twenty-six states with 214 electoral votes were carried for General Grant. Of the popular vote, Horatio Seymour received only 2,713,600, out of 5,724,684 votes cast. The day of redemption was still afar off. That day did not dawn until every expedient known to the laws of grace and wisdom was exhausted.

In other chapters the reader has been told how reconstruction laws were passed, amended, and re-amended. He has observed the practical operation of military and civil control over a people not unused to freedom. The friction which led to President Johnson's impeachment is a part of this record of perpetually recurring provocation. But, perhaps no people ever experienced such humiliation and degradation as were suffered by the South, from the rule of the carpet-bagger. In its endeavors to reconstruct the South on a partisan basis, the crying sin of the Republican party was the vagabond qualities of its agents in that section. In vain is language to depict this phase of Southern subjection against it. The thesaurus of our English tongue may do justice to the plagues of Egypt; but here were plagues tenfold more numerous and worse. The writer is compelled to call in the opulent vocabulary of Judge Jeremiah S. Black, to eke out, or wreak out, his feebleness of expression in describing the plundering horde that flew down upon the South at the close of the war. Here is Judge Black's description of the Republican agents in that unhappy section of the Union:

"The people would not have been wholly crushed either by the soldier or the negro, if both had not been used to fasten upon them the denomination of another class of persons which was altogether unendurable. These were called carpet-baggers, not because the word is descriptive or euphonious, but because they have no other name whereby they are known among the children of men. They were unprincipled adventurers who sought their fortunes in the South by plundering the disarmed and defenseless people; some of them were the dregs of the Federal army — the meanest of the camp-followers; many were fugitives from Northern justice; the best of them were those who went down after the peace, ready for any deed of shame that was safe and profitable. These, combining with a few treacherous 'scalawags,' and some leading negroes to serve as decoys for the rest, and backed by the power of the general government, became the strongest body of thieves that ever pillaged a people. Their moral grade was far lower, and yet they were much more powerful, than the robber-bands that infested Germany after the close of the Thirty Years' War. They swarmed over all the states, from the Potomac to the Gulf, and settled in hordes, not with intent to remain there, but merely to feed on the substance of a prostrate and defenseless people. They

took whatever came within their reach, intruding themselves into all private corporations, assumed the functions of all offices, including the courts of justice, and in many places they even 'ran the churches.' By force and fraud, they either controlled all elections or else prevented elections from being held. They returned sixty of themselves to one Congress, and ten or twelve of the most ignorant and venal among them were at the same time thrust into the Senate.

"This false representation of a people by strangers and enemies, who had not even a *bona fide* residence among them, was the bitterest of all mockeries. There was no show of truth or honor about it. The pretended representative was always ready to vote for any measure that would oppress and enslave his so-called constituents; his hostility was unconcealed, and he lost no opportunity to do them injury. Under all these wrongs and indignities, the Caucasian men of the South were prudent, if not patient. No brave people, accustomed to be free, ever endured oppression so peacefully or so wisely. The Irish, with less provocation, were in a state of perpetual turbulence; the Poles were always conspiring against the milder rule of their Russian masters; but Southern men 'made haste slowly' to recover their liberties. They could not break the shackles of usurped control; some of the links gradually rusted and fell away of themselves. The gross impolicy of desolating the fairest half of the country impressed itself more and more upon the Northern mind; the mere expense, in money, of maintaining this vulgar tyranny became disgusting. The negroes gradually opened their eyes to the truth that they were as badly imposed upon as the whites. With consummate skill, the natural leaders of the people hoarded every fresh acquisition of self-governing power. State after state deposed its corrupt governors, by impeachment or otherwise, and brought its official criminals to justice, until all were redeemed except Florida, South Carolina, and Louisiana. A more particular look at the condition of the last named state is needed, because it was the principal theatre of the 'Great Fraud.'

"The agricultural and commercial wealth of Louisiana made her a strong temptation to the carpet-baggers. Those vultures sniffed the prey from afar; and, as soon as the war was over, they swooped down upon her in flocks that darkened the air. The state was delivered into their hands by the military authorities, but the officers imposed some restraints upon their lawless cupidity. They hailed with delight the advent of negro suffrage, because to them it was merely a legalized method of stuffing the ballot-box, and they stuffed it. Thenceforth, and down to a very recent period, they gorged themselves without let or hinderance. The depredations they committed were frightful. They appropriated, on one pretense or another, whatever they could lay their hands on, and then pledged to themselves the credit of the state for uncounted millions more. The public securities ran down to half-price, and still they put their fraudulent bonds on the market and sold

them for what they would fetch. The owners of the best real estate, in town or country, were utterly impoverished, because the burdens upon it were heavier than the rents would discharge. During the last ten years, the city of New Orleans paid, in the form of direct taxes, more than the estimated value of all the property within her limits, and still has a debt of equal amount unpaid. It is not likely that other parts of the state suffered less. The extent of their spoliation can hardly be calculated, but the testimony of the carpet-baggers themselves against one another, the reports of committees sent by Congress to investigate the subject, and other information from sources entirely authentic make it safe to say that a general conflagration, sweeping over all the state from one end to the other and destroying every building and every article of personal property, would have been a visitation of mercy in comparison to the curse of such a government. This may seem at first blush like gross exaggeration, because it is worse than anything that misrule ever did before."

Was there ever in the language of vituperation, such an indictment against such a class? Was there ever in the memories of a crushed people, such a truthful statement of burdens too grievous to be borne? Let the conclusion of this great lawyer answer. The language quoted is from Judge Black's essay on the Electoral Commission, entitled "The Great Fraud of 1876." Here is another passage from it: "The greediest of Roman proconsuls left something to the provinces they wasted; the Norman did not strip the Saxon quite to the skin; the Puritans under Cromwell did not utterly desolate Ireland. Their rapacity was confined to the visible things which they could presently handle and use. They could not take what did not exist. But the American carpet-bagger has an invention unknown to those old-fashioned robbers, which increases his stealing power as much as the steam-engine adds to the mechanical force of mere natural muscles. He makes negotiable bonds of the state, signs and seals them, 'according to the forms of law,' sells them, converts the proceeds to his own use, and then defies justice 'to go behind the returns.' By this device, his felonious fingers are made long enough to reach into the pockets of posterity; he lays his lien on property yet uncreated; he anticipates the labor of coming ages and appropriates the fruits of it in advance; he coins the industry of future generations into cash, and snatches the inheritance from children whose fathers are unborn. Projecting his cheat forward by this contrivance, and operating latterly at the same time, he gathers an amount of plunder which no country in the world would have yielded to the Goth or the Vandal."

What did the prostrate states do under their trials and tortures? Submit? Yes — measurably. They hid in "Klans." They rode at night to confer. They appealed in vain for relief to the Federal conquerors, and the dominant party in the North. In vain their appeal for a stay of the plague.

Failing with Horatio Seymour as a candidate, the people were attracted

to the great journalist of New-York City — Horace Greeley. His foresight and kindness had taught him the larger lessons that belong to charity and peace. He knew, too, that the responsibility for the great conflict was a divided one; and that justice as well as mercy required that his active mind, his generous heart, his trenchant pen, and his philanthropic soul should rise above party malignities and successes, to the end that the country should be saved. After much discussion, and some reluctance, on the part of the Baltimore Convention, the editor of the *Tribune* appeared before the Nation as the Democratic banner-bearer, with amnesty in his heart, and with rare gifts of utterance for reconciliation.

Two years before Horace Greeley's nomination for the Presidency, the writer had the honor to contest successfully a congressional district in New-York City with him. The contest turned on economic questions; for both candidates were in harmony upon one thought — that liberal Democrats and liberal Republicans should join at once, and heartily, to save the South from the disorders and horrors of the existing rule of the adventurers who were gleaning by robbery all that the scythe of war had left to the Southern land. The subsequent candidacy of Mr. Greeley for the Presidency had certain good effects. There were fearful and formidable evils which had grown out of the war by the misuse of official patronage, and the lack of accountability. These were demoralizing our whole political life. The issues were turned out of the miry road of the vulgar, corrupt, and ferocious scramble for spoils, into a contest for a benign principle. As it was happily phrased by Mr. Parke Godwin, it was the contest for a composite democratic Republic, in which the supremacy of the Union, the independence of the several states, and the liberty of the individual should be alike requisite and indispensable, each in its place, to the harmonious working of the whole.

But there was a disaffected element in the Democratic ranks which would not accept the nomination of Mr Greeley. The reform Democratic party was called a "mended and frayed strand" of its old tissue; but if any two things were then most needed, it was the mending of the frayed tissues of Federal government, and the conduct of administration, North and South, by honest men. Who was there to make whole the torn garments of the Union? Who more inspired with the true genius of reconstruction than honest Horace Greeley, in whom it was incarnate? He had, ever since Lee's surrender, and before it also, "pleaded against the party of enduring hate, and the wrath engendered by a bloody civil war."

When the author began his canvass for Congress in 1872, he placed the issue upon these grounds, in regard to the Presidential candidacy: "The Democracy," said he, "should remember that, while in the heat and dust of other strifes Horace Greeley has not spared them, yet, in generous rivalry, he has endeavored with them to pursue the paths of peace. With a life of

unusual activity, a pen of masculine vigor, a mannerism not at all lacking in the simplicity needed in high places, coming from the people as a poor and friendless but brave boy, into the heart and swirl of a great metropolis, he has left his impress on this country. If elected he will, under God, impress his administration with sentiments mellowed by new associations, with charities silvered over by advancing years, and with a reverence for the hallowed traditions of our early national career, made glorious by that Democracy which has in the vicissitudes of parties become his ally in that progress, and a sharer in the common blessings and glories which his administration would bestow. The fullness of those blessings will come to our country, because they will be inspired by the spirit of reconciliation."

But old party prejudices were inveterate, and the Republican reconstruction plan prevailed. General Grant was supposed to be in accord with that plan; civil governments South were still disorganized; lawlessness South begat timidity North; the military spirit was still rife and rampant; and the issues of the war were still uppermost in men's minds. With Henry Wilson as his associate, Gen. Ulysses S. Grant, the invincible, was again elected President by a great majority, and on the largest increase of a national vote since 1828. The increase was 38.3 per centum over that of the year 1868.

Mr. Greeley did not long survive this defeat. His self-abnegation, labor, and earnestness during the canvass were a fit sequel to his three decades of leadership in American philanthropy, journalism, and politics. He died from exhaustion, aged sixty-one, in less than a month after the election.

In the next campaign, Democracy was as indomitable as ever. Its leaders knew that the memories of the sanguinary war could not be perpetuated. They now began to force a discussion of practical politics; for, as 1876 approached, some of the old questions faded into twilight, while others gleamed forth with an unpleasant glare.

There was a great change in the details of politics toward the conclusion of the second decade. The questions which began to give concern related not so much to Federal unity as to the vitality and vigor of our institutions. Federal officers, under partisan legislation, were more and more aggressive in assuming relations with suffrage that were incompatible with its existence. This overruling question, together with the effect of pardon upon those engaged in the war of the rebellion, and the attempts made in and out of Congress for general and particular amnesty, and especially for the repeal of that odium of all the annals of time — the test oath — became the leading issues of the campaign. Among other questions, came up the Civil Rights bill. That bill was much vaunted as a measure of reconstruction. It had been enacted to assist the fortunes of the party in power. It proved a delusion in practice. It was defended on the ground of the equality of all persons, regardless of the province of the state or local authorities over social relations. It was said by so eminent a Republican as Gen. Joseph R.

Hawley, that he voted for that measure on the ground that he was not ashamed to sleep in a tavern, or go to a theatre, or be buried in a grave-yard with his colored brother. He forgot that this was not the question. It was as to the function of the Federal Government. The Civil Rights bill was defended on the ground that the new amendments of the Constitution required such legislation. This was adjudicated finally two years ago, but such decisions as were previously had — as in the Slaughter House cases — declare that the amendments are prohibitions on the states, and not grants of power to the Federal Government, and therefore that domestic matters are not to be regulated by Federal law. It would be an absurdity to declare by act of Congress what kind of food or drink or rules should obtain in a tavern; or whether our theatres should play farce or tragedy, Shakespeare or Boucicault — "Raising the Wind" or the "Big Bonanza."

In connection with these social measures there came to the front with the velocity and force of an explosion, the question of the effect of the currency and other Federal legislation on the business interests of the Nation.

Aside from the condition of the South, the leading propositions which attracted the attention of Congress during the last part of the second decade and the first part of the third, were those for the resumption of specie payments, the regulation of paper currency, and the modification of the tariff and internal revenue laws. These were questions of living concern to the people. Nevertheless, as in the past, and even as late as the campaign of 1880, the Republican party in the campaign of the Centennial year of the Republic made its stand on memories of sectional strife, and the alleged disloyalty of the Democratic party, and the customary false accusation of recusancy in the South with respect to the results of the war.

The war memories, however, could not last forever. There must be a time for the anodyne of oblivion. The form, structure, system, genius, and polity of our government were more or less called in question, as well as imperiled by other practical infidelities to our social and political order. There were terrible strains put upon the elective franchise by the bayonet power in the South, and Federal supervisors in the North, which gave a tension, almost to the snapping point. Such excesses met with heroic resistance. The contest of liberty-loving men against the use of the army at the polls was begun at the end of the war. The first great effort was made by Lazarus W. Powell, of Kentucky. His efforts and speech are forever associated with the Democratic protests against this unbridled race for power, over the ruins of elective liberty. A *modicum* of relief came after the war, from the repressive measures which forbade all election or choice by the people of the prostrate states. The question took a more substantial form after the election of 1876. The movement was led and the liberty of the suffragist championed in the House of Representatives by Abram S. Hewitt, of New-York.

A statement of the facts with regard to this struggle in Congress for the repeal of the war legislation which authorized the Executive to use the army at the polls, and thereby influence the result of elections and control the suffrage of the people, is important.

Mr. Hewitt was chairman of the national committee which conducted the Presidential campaign of 1876. The outcome of that campaign will appear in the subsequent chapters. It terminated in the fraudulent inauguration of Hayes as President by methods unknown to the constitution. Mr. Hewitt's knowledge of the circumstances convinced him that this result was only made possible by the despotic use of the army in several of the states, but particularly in Louisiana. His soul was stirred with indignation. He feared, and with reason, lest free government should perish in the land, unless the power to use the troops at the polls were abolished. He determined to devote himself to the supreme duty of repealing the legislation which had made a national fraud triumphant for the first time in the history of the country. The movement was inaugurated by the insertion of a provision in the bill for the support of the army. It was framed at the second session of the Forty-second Congress. It forbade the use of the army for the purpose of sustaining the so-called state government of Packard in Louisiana. The provision referred to was hardly broad enough to meet the necessities of the case. Nevertheless it caused the loss of the bill. The army was maintained from July until October, 1877, without lawful appropriations. President Hayes called an extra session of Congress. It met in October. To Mr. Hewitt, then comparatively a new member, had been assigned a position on the most important committee of the House. To him was confided the Army bill. A reference to the debates will show that the bill reported contained no provision whatever as to the use of the troops, and that notice was given that at the regular session, beginning in December following, a proposition would be made for the repeal of the obnoxious legislation. At the second session Mr. Hewitt, as before, was placed in charge of the Army bill. Proctor Knott, now governor of Kentucky, was made chairman of the Judiciary Committee. Mr. Hewitt consulted with him as to the form of the provision which he should offer as an amendment prohibiting the use of the army as a *posse comitatus* in civil proceedings. Such a provision was drafted. It was arranged that Mr. Knott should offer it as an amendment to the Army bill which Mr. Hewitt would report. The amendment was offered. It was ruled in order. It was adopted by the House. It was rejected by the Senate; and then the bill went into conference. The result was the adoption of the bill containing the *posse comitatus* clause. The first step was thus successfully achieved.

In the third and final session of the Forty-fifth Congress, this indefatigable statesman followed up his success. He determined to secure the repeal of the sections of the Revised Statutes which permitted the use of the

troops at the polls. In the speech which he made on the introduction of the Army bill on the 1st of February, 1879, will be found a brief history of the previous legislation, and a statement of the condition of the question at the time of the introduction of the bill. It is well to know how strongly fortified the New-York member was as to the technical and legal effect of his movements. He had conferred with Mr. David Dudley Field. That eminent publicist had contributed to the *Albany Law Journal*, in September, 1877, at Mr. Hewitt's suggestion, an exhaustive paper upon this subject. In fact, public opinion was ripe for the removal of all impediments to free elections. The repealing amendment was offered, and, strange to say, it was not objected to. If amenable to a point of order, none was made. It passed the House without a division. The bill went to the Senate. There this provision, as well as the clause looking to the reorganization of the army, was rejected. The bill went into conference. It was soon found that upon every point of difference there could be agreement, except the provision which repealed the power to employ troops at the polls. In the conference committee, Mr. Blaine appeared as the determined advocate for the retention of this power, while Mr. Hewitt and Mr. Sparks,—the present Land Commissioner, then chairman of Military Affairs,—insisted upon the repeal as adopted by the House. Three conference committees were appointed. They failed to agree. On the 3d of March, 1879, Mr. Hewitt announced the final disagreement.

His speech on that occasion was resplendent with the spirit of devotion to civil liberty. In it, with admirable vigor of argument and eloquent beauty of appeal, he supported the Democratic position that it should no longer be lawful for a soldier to be at a polling-place on the day of election. His words deserve to be repeated whenever and wherever the story of the struggle is told. Mr. Hewitt said: "The issue involves the very essence of free government. The difference between a despotic government and a free government is this: in a despotism, the military power is superior to the civil; in a free government, the civil dominates the military power. The latter principle is one which we never fought for; it came to us as an inheritance from our fathers. It was so well recognized that when the Constitution was formed it was not even deemed necessary to insert an article to that effect. But, as a protection against military interference, provision was made that citizens might bear arms, and that no soldiers should be quartered upon them without their consent. No English-speaking man for two hundred years has questioned the principle that soldiers should never be present at the polls; and the question could never have been raised in this country, the demand could never have been made in our land, but for the calamity of a civil war. In time of civil war many political rights must be surrendered to the necessities of the conflict. And so it was here. We surrendered the right we had inherited, and which up to that hour we had exercised, that

no soldier should show himself at the polls. We surrendered that safeguard as we surrendered many other things that were dear to us. A convertible currency, specie payments, almost every traditional right, disappeared in the presence of the great danger with which we were confronted.

"Now, for fifteen long years we have been striving to recover that lost ground. We have made gigantic efforts, sacrifices such as the world never saw, to get back to the resumption of specie payments; and yet we have done nothing for the resumption of our political rights, the rights which lie at the very foundation of this government. It is a reproach to our patriotism that the resumption of specie payments should have preceded the resumption of the rights necessary for the preservation of free government. It is an imputation upon this liberty-loving people and its representatives that they have allowed the time to pass by until now.

"Can we surrender this question? Would we be justified by the people of this country, now that the issue has been raised, in conceding the principle in time of profound peace, fifteen years after the close of a civil war, that soldiers may be ordered by an executive power to the polls on the day of an election? Of all men in the House, I am most anxious that there shall be no extra session; I have everything to lose and nothing to gain by it. All that I have in the world is engaged in business operations which are always damaged by extra sessions of Congress. But there are things greater than money, greater than profits, — without which money disappears and profits are an illusion, — things for which men have sacrificed fortune and family and life in every age of the world, and the greatest of all is the right of self-government. This question in respect to this bill lies at the very foundation of the struggle for civil liberty which has lasted since governments first began, and survives, as this scene bears witness, to this very hour.

"The issue thus made is one which we are ready to accept before the country. Let the people decide whether they are prepared to surrender the sacred right of untrammeled suffrage which this bill seeks to guard! Unless the blood which courses in our veins has degenerated from the vital fluid which has made the Anglo-Saxon people great and free, I cannot doubt the result of the appeal which I now make to the country."

The Forty-fifth Congress adjourned without passing any bill for the support of the army. An extra session was thus rendered necessary. The honored member from New-York was not a member of the Forty-sixth Congress. He, therefore, took no part in the great debate which resulted in the final achievement of the repeal. But his long and earnest fight, prompted by the purest patriotism, love of equity, honor, and law, was of paramount importance to the settlement of this fundamental question involving the obscuration of the liberties of the people and the brutalizing excesses of force against the muniments of freedom.

The antagonism of Mr. Blaine to the dissipation of this eclipse of liberty

by the baleful orb of despotic force, represents truly his position and that of those who voted with him for the perpetuation of this menace by the bayonet upon the free will of the voter. The opposite position, well bastioned by the persistent labor and spirit of Mr. Hewitt, defines with equal zeal and signal ability the status of the Democratic party, — whose platforms even yet glorify the achievement of free suffrage, which is one of the crown jewels of our sovereignty.

In February, 1875, the writer addressed the House at length on this and kindred themes. The speech was from the text: "Force or Freedom!" This title suggests its logic. The long decade of mockery, with its military, with its commissions, its menaces to legislatures, and its "regulation" of elections, was exhaustively handled. The inestimable value of the franchise, is recognized in "leading cases" for over three hundred years in English jurisprudence. It can never be abridged or destroyed without sacrificing order, peace, and liberty; and when these are gone, chaos has come. This was the vein of the discourse.

It was in 1871, on a bill to amend the election law, that the writer began to do his humble part in this line of enfranchisement. He denounced all efforts to enforce Republican rule by military domination over the ballot. At that time, the Democrats were hardly one-third of the House, but they believed that the body of the voters was with them; and yet, in defiance of all the traditions and histories of public and private liberty since public and private liberty had life, violent interference with the voter was persisted in.

The Athenian law was that the man who interfered in any way with "elections," in which choice must be free, should suffer death. When a stranger interfered in the assemblies of the Athenian democracy he was esteemed guilty of a high crime. He was a usurper of rights of sovereignty to which he had no title. This was in a pure democracy, where the populace assembled in the Bema and decided directly, after the orators and statesmen had presented the questions of public policy. In a representative government like that of England, the laws have been strict to guard against the abuse of the franchise by fraud and force. We know that the common law of England gave a remedy to the voter wrongfully repulsed from the polls. The leading case, which has been followed by our courts even when there has been no statutory remedy, is that of Asby *vs.* White, in which Judge Holt uses this lofty language:

"And surely it cannot be said that this is so inconsiderable a right as to apply that maxim to it, *de minimis non curat lex.* A right that a man has to vote at the election of a person to represent him in Parliament, there to concur to the making of laws which are to bind his liberty and property, is a most transcendent thing, and of a high nature."

But lest this common law right should prove no adequate remedy for the wrongful proceedings at elections, the English statute made it a high penalty

for any soldier to be quartered near the polls. He must be at least one mile off. In Blackstone, Tucker's edition, volume 2, page 179, the law is thus stated:

"As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended."

It is further required that the Secretary of State for War, or the party who for the time being is acting as Secretary, shall issue his orders to remove all soldiers from places of voting, and if he fail to do so he is to be dismissed and to be forever disqualified from holding office in England.

So that this "transcendent thing" of untrammeled voting is guarded not only by the maxims of the common law, but by stringent penalties in English legislation. These penalties were the result of that jealousy which the Commons entertained for their constituents against kingcraft. Our fathers received the same maxims, and endeavored to institute the same safeguards. The messages of our early Presidents are full of this jealousy of military powers. It was reserved for the Republican party to disregard all these maxims and muniments of free elections and popular liberty. Is not the right of free election, of uncontrolled choice, inconsistent with force? Is not the bayonet directly the enemy of the ballot? Are we not cherishing what has been handed down to us in our history and Constitution, when we are jealous of the subordination of the civil to the military power? And should we not, therefore, upon the principles of logic, ethics, law, and patriotism, oppose every attack on the freedom of the ballot?

In the same connection, the Federal supervisors of elections and their abettors, came under the condemnation of the vigilant congressional Democracy. What a humiliation to an American citizen it was, to see hirelings, like the tatterdemalions of Falstaff, under the lead of the election superintendents at the polls in our large cities!

The platforms of parties on these subjects after the war are well known. It is enough to say, that after the disaster which the Democrats suffered in 1868, by the failure to place in the Presidential chair that man of unsullied purity and statesmanship, Horatio Seymour; and after their failure to bridge the chasm in 1872, there was more or less of a saturnalia in our politics. At last the strong arm of the Democracy was lifted. In 1876 the popular vote was given to it by a majority of 250,935. Preceding 1876, Colorado and Nebraska had become states in the Union. Their votes were, owing to the senatorial offices, potential to reverse the popular will, even if there had not occurred the financial crisis in 1873. This crisis was followed by a period of extreme depression of values, which ran through 1874, 1875, and 1876. It called into activity many nostrums in finance and much nonsense in politics. Return to specie payments was more or less delayed, and even

a return to silver subsidiary coinage found more or less impediment growing out of greenback or non-redemptionist ideas. Other questions came to the front in connection with administration, which it is not the purpose of this history to record, although in many of these the writer took an interest. Some had relation to the life-saving and letter-carrier systems, the repression of dangers at sea, the repeal of the registry laws of vessels, the purchase of foreign-built vessels and the supervision of steamships. Various contrivances came to the front in respect to our public debt, together with legislation concerning the public lands, railroads, and railroad grants and their forfeiture. In the discussion of these questions the military at the polls were too often forgotten.

The people of this country had hoped by the apparent ascendency of Democrats to power in 1876, that men who, like Samuel J. Tilden, in New York, had, in their various states, been connected with the overthrow of fraud and the vindication of honesty in the administration of affairs, would bring the business of the government into the realm of ethical science; and that they would regard office as a trust, to be executed for the common weal. The public voice then demanded with no uncertain sound that the executive branch of the government should be taken out of the hands of the Republican party. The Democracy saw that Governor Tilden had acted his part nobly and well as governor of the State of New-York, hence they elected him President of the United States. They were prepared to believe that a new dawn had arisen upon our democratic-republican form of government; but how dark was their disappointment! The Republican party, which had legalized the infractions of every wise law, stole another term of power! It had cured none of the trouble in the South. It had not given a staff to business decrepitude. It had left the states as the prey of swindlers and usurpers. It had made itself the supple tool of all reckless enterprises. It was harsh and proscriptive. It used its power so odiously that the centennial year of 1876 thundered its denunciation, but after all, the end of that party was still afar off, because Democracy failed of arousal to a sense of the great wrong which was committed by the electoral count of the following year, which will be discussed in the next two chapters.

CHAPTER XXXVI.

THE FAMOUS ELECTORAL COMMISSION OF 1876-'77.

THE FORTY-FOURTH CONGRESS ASSEMBLES — THE GATHERING STORM — DIVISION OF PARTIES — OPINIONS ON THE MODE OF COUNTING THE ELECTORAL VOTE — PERPLEXITY OF THE PROBLEMS — COMMITTEES RAISED UNDER KNOTT'S RESOLUTION — HOW THEY WERE CONSTITUTED — THE SECRETS OF THE COMMITTEES NOW FIRST DIVULGED — THEIR DEBATES AND THE RESULTS — SEPARATE AND JOINT ACTION — CHANCES BY DRAWING LOTS — THE SUPREME JUSTICES CALLED IN — THE SHREWD DEVICES OF THE REPUBLICANS — HOW THE SECRETS WERE KEPT — VARIOUS DRAFTS OF BILLS — RUMORS OF WAR — PREPARATIONS FOR THE USE OF FEDERAL TROOPS — FINAL REPORT TO CONGRESS AFTER THE SECRET DISCUSSIONS.

IN the history of elective governments no such strain was ever put upon human nature as that which tried the patience, forbearance, and patriotism of the people of this country during the proceedings for the counting of the Presidential vote in 1876–'77. A case like that one could never occur again without sanguinary results. How the will of the people was then defeated by malevolence, greed, fraud, and the breach of every legal bond, the sequel will show.

Clouds thick and threatening obscured the horizon when the Forty-fourth Congress met at its closing session, in December, 1876. There was an evident determination on the part of the Republican leaders not to surrender the reins of power. There was as resolute a purpose on the part of the Democracy to gather, at all hazards, the fruits of the victory which they believed they had fairly won. There seemed to be no alternative but civil war. The situation was indeed grave. The Congress was divided politically into hostile camps. The Senate was Republican, the House Democratic. The all-absorbing, war-threatening questions were: Had the President of the Senate, by virtue of his office, the right to count the electoral votes? Did the Constitution invest him with discretionary power to decide what were and what were not the electoral votes of a state? Must both

houses of Congress acquiesce in counting the votes of a state before they could be counted? Or would the objection of either house be fatal to any electoral returns? These questions perplexed the people at large as well as Congress. Peace, unless one or the other party surrendered its claim of victory, seemed out of the question. No middle ground appeared possible. The horrors of another civil war loomed up before the affrighted vision. In the war for the Union it was section arrayed against section; but in this which seemed to be now threatening it would be neighbor against neighbor, father against son, brother against brother.

On the third day of that session of Congress the electoral colleges met in the several states. As had been anticipated, double sets of returns were prepared and forwarded from South Carolina, Florida, and Louisiana, and two claimants appeared for one office of elector in far-off Oregon. Petitions poured into Congress from commercial organizations and good citizens of all parties and all sections, anxiously praying for a peaceful settlement of the Presidential question. In the wisdom and the patriotism of that body was now the only reliance for averting bloodshed. A few days after the meeting of the electoral colleges, December 14th, Mr. Proctor Knott, of Kentucky, then a member of the House, and now the governor of that state, known to fame as the immortalizer of "Duluth," initiated a response to the urgent demands of the country. He proposed a committee of five members whose duty it should be, acting in conjunction with a similar committee on the part of the Senate, to consider the whole question of the disputed votes, and to recommend to Congress a course to be followed. The resolution was adopted almost with unanimity. On the 22d of December, "Forefather's Day," the Speaker, Mr. Randall, of Pennsylvania, announced the select committee which the resolution called for A like committee had already been named in the Senate. Messrs. Edmunds of Vermont, Morton of Indiana, Conkling of New-York, Frelinghuysen of New Jersey, Republicans; and Thurman of Ohio, Bayard of Delaware, and Ransom of North Carolina, Democrats, composed the Senate committee. Messrs. Payne of Ohio, Hewitt of New-York, Hunton of Virginia, Springer of Illinois, Democrats; and McCrary of Iowa, Hoar of Massachusetts, and Willard of Michigan, Republicans, composed the House committee.

A fair proportion of the wisdom and patriotism of Congress was believed to be embodied in these selections. Mr. Payne made arrangements for a preliminary examination of the precedents relating to the counting of electoral votes. Nothing else was done until after the holiday recess. The country began to breathe more easily. Congress had awakened to the situation. Each house seemed to be doing its best to avert the threatened anarchy. Still, there was sufficient uneasiness to paralyze trade and commerce. The clouds were not all dispersed. After the holiday recess was over, Mr. Payne and his coadjutors of the House committee settled down to business promptly.

The Senate committee under the lead of Mr. Edmunds, did the same. Almost at the outset it became evident that the two parties, as represented in the committees, would not agree on the question regarding the extent or limitations of the powers and duties of the President of the Senate in the matter of counting the disputed electoral votes. Several plans of accommodation were proposed, but all of them led straight to one of two results, namely, either the seating of Tilden, or the seating of Hayes. They were, therefore, sure to encounter the opposition of either the Republican Senate or the Democratic House. In this situation there was no prospect of Congress reaching a point where it would perform its constitutional duty of declaring who had been elected President. Could Congress constitutionally abrogate or delegate that high prerogative? The committees had serious doubts on this question, but some conclusion must be reached. Nine propositions were submitted at the first meeting of the House committee after New Year's Day. Among these the fifth contained the germ of thought out of which grew the famous Electoral Commission. This proposition suggested the enactment of a law creating an independent tribunal which should be authorized to count the vote, and to determine any specific questions of law or of fact which might be involved in such proceeding.

Curiously enough, each committee, acting separately, without consultation or even knowledge of what the other was doing or contemplating, took up almost simultaneously the same idea of an independent tribunal. When the House committee met on Jan. 10, 1877, Mr. McCrary, of Iowa, a lawyer of excellent ability, now a United States judge, submitted the draft of a bill for an independent tribunal. This tribunal was to consist of members of the United States Supreme Court,—the Chief Justice and a number (in blank) of associate justices, in the order of their seniority of commission. The Chief Justice was promptly ruled out. An objection was raised by a Democratic member of the committee that Mr. Chief Justice Waite had been heard, the previous summer, to express himself in terms of personal hostility to Mr. Tilden, such as better befitted a partisan than a judge. Whether this was so or not, the doubt as to his bias had its effect. It should be here said, in justice to Mr. Waite, that at a subsequent stage of the discussion a personal friend of his, speaking for him to the committee, stated that it was the Chief Justice's earnest desire that his name should not be considered in connection with the proposed commission The plan finally agreed upon by the House committee favored an independent tribunal, to consist of the five senior associate justices of the Supreme Court. These were Justices Clifford, Swayne, Davis, Miller, and Field. Two of these were known as Democrats, two as Republicans, and Mr. Justice Davis' political affinity was in doubt. Thus the political balance so much sought for seemed to be happily attained.

Mr. McCrary's bill made the decision of the proposed tribunal binding,

unless both houses of Congress should vote to overrule it. His Democratic associates insisted on an amendment to the effect that the decision of the tribunal should have no binding quality or effect unless concurred in by both houses. To this the Republicans would not consent, and the change was made without their help. The House bill, besides providing for an evenly balanced tribunal, contemplated a hearing of the questions in dispute on their merits. To these five eminent judges were to be referred "the certificates objected to, together with the objections, and all papers and evidence in the possession of the President of the Senate, or of either of the houses of Congress relating thereto." Power was to be granted them "to send for persons and papers, and to compel the attendance of witnesses; also to cause testimony to be taken before one or more commissioners, to be appointed by them for that purpose." This was before the *aliunde* device for cheating the people had been concocted. The proposed inquisitorial power would enable the tribunal of learned justices to strip the mask from fraud, and at the same time would not bind them to admit that a lie became truth by being so labeled under sealing wax and red tape.

Thus far the two committees were in ignorance of each other's movements. Each preserved its own secrets inviolably. Mr. Payne, of Ohio, the chairman of the House committee, was then a member of the Committee upon Banking and Currency, of which the writer was chairman. They met every day, in their historic room — the Speaker's room when the House sat in the old hall; the room in which John Quincy Adams saw the "last of earth." Mr. Payne and the writer held close relations. These began in 1855, when Mr. Payne was a candidate for governor against Mr. Chase. But this and other olden intimacies growing out of the Douglas and anti-Lecompton contest had not magic sufficient to open the cave where the mysterious ingots of political opulence were hidden in 1877. The clerk of the Banking and Currency committee was Mr. Milton H. Northrup, of Syracuse, New-York. He had been appointed by the writer. His trustworthiness led Mr. Payne to appoint him as clerk to the House committee upon the electoral count. He was, and still is, the custodian of the archives of that remarkable star chamber. Whether he has since divulged them to any one, the authenticity of this relation should divulge to the logical mind. But from neither the chairman, Mr. Payne, nor his clerk, Mr. Northrup, could the writer, at that time, by any torture of inquisition, obtain the least hint of the proceedings. The secrets of that prison-house were so well kept that not even the acutely-scenting press correspondents had been able to learn that such a bill was being considered. The first intimation the writer, or any one outside the committee, had of its propositions, was from the bill itself, after it had received its consummation of bud and bloom and been printed by order of the committees.

In response to an invitation from the chairman of the Senate commit-

tee, Mr. Edmunds, the House committee on the 12th of January journeyed over to the Senate wing of the Capitol. They were ushered into the Judiciary Committee room, and into the presence of the ambitious statesmen who then sat around its long table. A comparison of notes followed. Each committee was found equipped with a plan. Each plan was a cure for the disorder under which the country staggered. The Senate plan was decidedly complex. While the House was content to submit the dispute to the five senior associate justices, the Senate wanted a mixed tribunal whose elements should come from the legislative as well as the judicial branch of the government. The Senate committee had arrived at a "third draft" of a bill. They had made revision after revision. They had at last agreed to submit a plan to their brethren of the lower house. It was this: A commission to consist of thirteen members. Nine to be taken from Congress and four from the Supreme Court. Each house of Congress to name five of its members to sit upon the Commission. One of the ten so designated was to be eliminated by lot. Under this plan the Senate would appoint five of its Republican members and the House of Representatives five of its Democratic members, and as the four Supreme Court judges were expected to be evenly balanced, the only way to break the inevitable deadlock in the Commission was to "draw cuts." The grave and reverend Senators who proposed this Biblical and happy-go-lucky mode of settling a Presidential succession by the intervention of Providence through the "chances," were the objects of occasional raillery from the members of the other committee. This return to primitive customs was humorously styled the "dice-box" principle.

The House committee readily accepted the Senate idea of a mixed Commission. It would give to Congress itself a representation on the tribunal to be created. But the Democrats of the committee strenuously insisted that if there was to be a "lot," it must apply to the judiciary rather than to the congressional members of the Commission—leaving the political part of it divided between the two parties. After general discussion it was gravely decided that the term "commission," rather than "tribunal," should be the title of this body. It was also decided that it should consist of fifteen members—an equal number from each of the three bodies represented. The Senate committee promptly acquiesced. Thenceforward the discussion related not so much to the plan as to the *personnel* of the Commission. It was assumed that, so far as the legislative part was concerned, the Commission would be a "stand off" between the parties. How to divide five judges equally between the two parties without doing violence to any one of those venerable wearers of the ermine, required such a nice mathematical calculation as to absorb the entire time of the great minds there assembled for several days. The Democrats claimed but two members of the Court, Justices Clifford and Field; the Republicans had, perhaps, all the rest. Still, Mr. Justice Davis was of uncertain political preferences. Was it unreason-

able to hope that the equipoise, the gravity of this distinguished jurist would not be disturbed by party predilections? It was finally agreed that the contention which was shaking the half of our hemisphere should be in this mode determined. It is too late now to gather up the thousand threads in the tangled rumors of that eventful time. There were rumors of assassination, rumors of wars, rumors of panic from commercial centres, and of *diablerie* from remote territories. Democrats were to march upon Washington by the hundred thousand. Federal troops were ordered to Washington, cartridges were being made, and chaos was riding wildly over the body of the Constitution under processes unknown to that instrument. By Saturday night an agreement was substantially reached. It provided for taking six of the justices, in the order of their seniority, namely, Clifford, Swayne, Davis, Miller, Field, and Strong,—one of them to be dropped out by lot. Senator Conkling eloquently urged this as perhaps the only practical solution of the difficulty. The House Democrats, except Mr. Springer, reluctantly assented. The advantage, they believed, was with their opponents, as it was not fair to class Judge Davis as a Democrat. Mr. Springer preferred to think it over until Monday morning. The joint session was adjourned, with the Electoral bill still suspended, after the manner of Mahomet's coffin.

Thus stood matters on Saturday night. When the committees came together the next Monday, a wonderful change had come over the spirit of their dreams. In spite of the sternest injunction of secrecy, the plan which came so near being adopted at the close of the preceding week had transpired. It had trickled into the columns of the New-York *Times*. Members of Congress were not long in getting hold of it. They were not long in heaping ridicule upon the proposition. Lottery might be in certain cases admissible, but not in lieu of constitutional methods. In the joint meeting of the two committees, Mr. Payne announced to his associates, that since their plan had become known, the opposition to that feature which provided for selecting six justices of the Supreme Court and dropping one by lot had developed to a degree which satisfied him that it could never receive the indorsement of the House. The House committee, on reflection, decided to withdraw their assent to that proposition. That committee once more submitted their original proposition to take the five senior justices outright. This was the fairest to all parties. Two of these, Justices Clifford and Field, being understood to be in Democratic sympathy, two, Justices Swayne and Miller, in Republican sympathy, and the fifth, Justice Davis, leaning no more to one side than the other. This plan, Mr. Payne urged, would insure the non-partisan character of the Commission. It would give the odd number without a resort to the "lot" system, to which many seriously objected. This brought a retort from Mr. Edmunds. This remarkable man, who bears so close a resemblance to a sainted character, is known as the St. Jerome of the Senate. He is a man whose wit rivals his legal acumen.

He said that Judge Davis was one of those "Independents who stood always ready to accept Democratic nominations." He had noticed that "such men are generally the most extreme in their partisanship," and, he added, that he "would rather entrust a decision to an out and out Democrat than to a so-called Independent." Having fired this Scythian arrow, the elegant and sainted Senator unstrung his bow. Mr. McCrary said that the Republicans of the House committee were quite satisfied with the senatorial Providential plan; but they would like fully as well to take the two senior justices only, and drop one of them by lot. "Certainly," added he, "no one would say that Clifford and Swayne are not absolutely fair."

During this remarkable confabulation, where is the great War Governor — Senator Morton? Glum and saturnine, he sits far and aloof from these superficialities. His every feature suggests clouds charged with thunderbolts. His very presence, as he frowns upon the gathered statesmen from behind his crutches, is a vengeful protest. He seems to be gathering electric currents for a wrathful flash of luridness and danger. Thus far he has eyed askance each talker, but has seldom spoken. He now ventures to address his associates. He declares that he entertains great doubt about the power of calling in any outside tribunal to settle this momentous question. If, however, there is such a power, "why not," he exclaims, "call in the whole Supreme Court? Is it not more simple? It will not have the appearance of being fixed. All parties will be satisfied. Their decision would be acquiesced in by all." This was in conformity with what the Senator said subsequently, when the bill was before the Senate. The Indiana Senator, with characteristic sledge-hammer force then denounced the plan as a "contrivance." He held that it was unknown to the Constitution. It was, in short, a cowardly evasion of duties by Congress. Mr Frelinghuysen took up the point in the joint committee and retorted that to drop one judge by lot could not possibly be susceptible to the charge of "being fixed." The discussion then reverted to the party leanings of Justice Davis. "Judge Davis," said Mr. Springer, "is just about as much of a Democrat as Horace Greeley was in 1871. He is not now, and never was, a Democrat. His most intimate friends, among whom I may count myself, do not know to-day whether he favored Tilden or Hayes. He did not vote at all. They only know that he is absolutely honest and fair."

The chances of agreement, so star-like on Saturday, had become nebulous on the following Monday. Unusual apprehension seized the committeemen. They feared that even if an agreement in committee were possible, its ratification by Congress was impossible. "Those fellows," said Mr. Edmunds, "who believe it foreordained that Hayes is to be President, think the Constitution, as it is, sufficient for their purpose. They will oppose any legislation whatever on the subject." Mr. Bayard, more sanguine, perhaps, than some of the others, said: "If we — seven men of both houses — could agree, would

there not be a weight in such an agreement sufficient to carry it through? Would it not be a most noble example of abnegation of partisanship? I am one who believes that whatever measure is recommended by this committee will be adopted." Mr. Hewitt, who, as chairman of the Democratic National Committee, was sometimes credited with representing the views as well as the interests of Mr. Tilden, was pressed by Mr. Conkling to suggest a way out of the entanglement. "My colleague," replied Mr. Hewitt, "is aware of the disadvantages I labor under in making suggestions. He has doubtless observed that I have had little to say in this discussion. Owing to my peculiar relations, I am unjustly supposed to speak for another. But my personal views are not always or necessarily in harmony with those of the person for whom I am supposed to speak." He stated his conviction, however, that the bill with the "lot" feature could never pass. Whereupon Mr. Conkling said it was a question in his mind whether it would not be better for each committee to report its own plan to its own house, and there discuss it, "getting together finally if we can." Throughout the committee sessions, Mr. Conkling manifested an exceeding anxiety to arrive at some satisfactory settlement. His opponent is Senator Morton. There he sits in his sullen and sublime disquietude. He is, in this mood, the Achilles of the contest. When the committees separate that evening, they walk out of the Senate Judiciary room with anything but a hopeful mien.

When the committees met the next day, Mr. Payne sought refuge once more in the bill agreed to by his Democratic *confrères* of the House committee,— naming the five senior associate justices, Clifford, Swayne, Davis, Field, and Miller. He again urged its absolute equipoise — Justice Davis, as usual, being relied on to divide himself equally between the two parties. For the sake of reaching an agreement, Mr. Payne announced that the House committee, contrary to their own judgment, had assented to the proposition that the decision of the tribunal should be final unless overruled by both houses. Mr. Morton interposed again in favor of taking the whole Supreme Court instead of any part of it, "and thus avoid invidious distinctions." Mr. Hewitt said that his idea was, to take five from each body, namely, five from the Senate, five from the House, and five from the Judiciary. "In selecting the latter," said he, "there is an obvious propriety in selecting those longest on the bench, as farthest removed from the passions of the party politics of the day. Those recently appointed on the bench are too fresh from the domain of politics to have gotten over a natural bias that they took with them."

Republican distrust of Justice Davis — the expected fifth wheel of the coach — and Democratic insistence that he should not be charged up against the Democrats, were the leading features of these discussions, of which the Constitution should by its own vigor have made an end. "The proposition of the House committee," declared Senator Frelinghuysen, "is really to make

a Commission of eight Democrats and seven Republicans. Judge Davis has twice aspired to the nomination by the Democrats for the Presidency. Perhaps he has now aspirations for the future. His vote might turn the government over to the Democrats or retain the Republicans in power. It is not a fair proposition." Mr. Hewitt, who had thoroughly investigated the judge, said that the best information he could get was that he was "neutral." At this a sardonic smile plays over the features of Senator Edmunds. He flashes somewhat recklessly his daggers of speech, keen-edged, like those of the Corsican vendetta, on which are burned in letters of bluish beauty — *A la morte!* "The best evidence of his neutrality," said the Senator, "is the same as that of Greeley and Chase. He is fishing after Democratic nominations!" Senator Thurman — the grand old man of Ohio, and the *fidus Achates* of Judge Edmunds — demurely suggests an even number of judges. "I do not believe," he said, "that they would range themselves on party lines. No doubt they would decide as they believed right." Here Mr. Hoar and Mr. Willard strike off on a line of their own. They are full of inspiration for "an evenly divided Commission, which, in case of inability to decide, should be empowered to call in an outsider, some eminent American not in public life, as umpire." A waggish member suggests Lord Dufferin as equal to the task! — It must be confessed that this accomplished civilian was not unfitted to decide a controversy which had overleaped the barriers of the Constitution; for had he not been the successful commissioner to the Lebanon, to intervene in behalf of the Christians who were being butchered by the cruel Druses of the mountains? Had he not visited "high latitudes" and drawn inspiration from the wisdom of the thousand years of Iceland's republican simplicity? Had he not, by persuasive good sense, reconciled Canada with the Crown? It was hardly waggery in such a dilemma to suggest so just and fair an arbitrator. There were more consultations; but still no agreement. The Republicans still insisted on drawing the line at Justice Davis. The Senate committee came forward with a new proposition. It was, to take the four senior justices — Clifford, Davis, Swayne, and Miller — and these to select a fifth. This, it seems, had the acquiescence of the Democratic members of the Senate committee. It was not approved, however, by the House Democrats. "I confess," said Chairman Payne, "that I am at a loss to understand how this last proposition is based on any assumption that the Commission should be equal. Judge Davis is not a Democrat. You ask us to take as a Democrat one who is not more than *half* a Democrat, against two absolute Republicans. I can see no equality in such a proposition."

Senator Bayard, whose faith in the Supreme Court was shortly to be rudely shaken, was sometimes disposed to criticize the Democrats of the lower House because they so stubbornly contended for absolute equipoise in the composition of the Commission. To them he talked across the commit-

tee table with that impressive earnestness which is his wont. No one felt the gravity of the crisis and the necessity for burying party in patriotism more than did the distinguished Senator from Delaware. Himself without fear and without reproach, he hesitated to attribute a lower standard to others. In pressing the acceptance of the Senate committee's latest plan, he said: "To me it is rather saddening that the agreement should hinge on the *quantum* of bias in Judge Davis. I know Judge Davis only slightly — know him only as a lawyer of limited practice knows judges who sit on the bench before him. I believe he is more of a Democrat than a Republican on existing issues. I cannot but believe that in this hour of great danger to the institutions of this country, there will be evolved a feeling above party, a feeling that shall regard the country as paramount to all merely partisan ends or considerations. Party view is not the only view to take, nor the strongest. For that reason I have voted for this proposition, though not fully meeting my views. . . . All this weighing and balancing may turn out to be perfectly useless. We may find the partisan feeling in the judges the very smallest. The mere fact of their selection under the circumstances, would of itself tend to make them non-partisan." The same spirit of confidence shone out in Mr. Bayard's remarks made in another day's discussion. "In my judgment," said he, "that estimate which is founded on the political prejudice of any one of these judges will be found wanting. I believe it would be most unwise in me to base my judgment of this measure on any supposition that the small bias of a judge should turn the scale of his decision." He would not stand on the shadow of a hair. On the broad question of dealing with a matter like this, he would not believe that partisanship could control the decision of judges. Many are the disillusions of human life; and it is safe to say one of them has often haunted the soul of the single-minded Senator.

Another fruitless session closed, and the two committees separated for consultation. They met once more. Next morning they are seated around the long table in the Senate Judiciary Committee room. They are informed by Mr. Chairman Payne that a majority of the House committee had been unable to assent to the Senate plan to charge Judge Davis against the Democrats in the choice of judges to sit on the Commission. Mr. Payne reminded them that the Judge, only the day before, was the candidate against the Democrats for Senator in Illinois. He called upon Mr. Hewitt to state a new proposition. "At first blush," he added, "it has the unanimous approval of the House committee." This proposition originates with Mr. Hewitt. It proves to be as follows: The two senior associate justices, Clifford, a Democrat, and Swayne, a Republican, are each to select another justice. Then these four are to name the fifth. In the course of the discussion that followed, Mr. Hoar said that they had all proceeded on the theory that there is a political bias in the Supreme Court. But he asked if any one

supposed that the judges would be willing to go down to history as dividing, on a question of such transcendent importance, on a party line? Would not their bias against thus appearing in history be infinitely greater than any mere party bias which they might happen to feel? This question was sufficiently answered a few days later, in the "8 to 7" Commission.

The Hewitt proposition was summarily rejected by the Senate committee. Chairman Edmunds pungently characterized it as "built on the cob-house principle." That truculent Senator insisted that the taking of six judges and dropping one by lot was the true principle. "This," interjected the iconoclastic Springer, "flavors of the dice-box principle." Senator Edmunds expressed his willingness to accept the "lot" plan "and let the world howl as much as it chose." But his committee had decided to submit a counter-proposition. It was, to take the associate justices from the First, Third, Eighth, and Ninth Judicial Circuits, and let these four name a fifth member of the Supreme Court to sit upon the Commission. "This plan," says the Vermont Senator, "has the merit of being based on geographical considerations — Justice Clifford representing New England, Justice Strong the Middle States, Justice Miller the Northwest, and Justice Field the Pacific slope."

At last a scheme, or, to adopt the designation given to it by Senator Morton, a "contrivance," was devised. It received the sanction of the committees and of Congress. Geography came to the aid of political science. It enabled the authors of the Electoral bill to jump over judicial seniority as nimbly as a deer would clear a hedge. They gracefully avoided the appearance of making invidious distinctions, which the selection of the judges by *name* would involve. The Republicans were enamored of the device. It was a new Mercator's projection, on which to map their course of plain sailing. It gave them Justice Strong, whose partisanship was pronounced, instead of Swayne. It was known that the latter had a personal regard for Mr. Tilden, in whose Gramercy Park mansion, it was said, there was a room always at Judge Swayne's service. These considerations made him not altogether a safe reliance when questionable party work was required. This contrivance suited the Democrats, also. It gave them what they had all along contended for, namely, two Democrats, with a contingent remainder in Mr. Justice Davis as a probable selection for the fifth judge. Judge Swayne felt the slight put upon him by his own party. He would have been acceptable to the Democrats. But it was said in committee that this action was taken in order to avoid the implication of unfairness, and that it was not the intention to slight Justice Swayne. He was an Ohio man. It would be indelicate to select a judge from either of the states of the Presidential candidates. Such a rule would exclude Judge Hunt, of New-York, as well as Chief Justice Waite and Judge Swayne, of Ohio. Congress itself seems to have been less tenacious of this point of etiquette, for Ohio was given no less than

three of the ten members representing that body in the Commission, namely, Senator Thurman and Representatives Payne and Garfield. New-York had no voice in that tribunal.

The "geographical" plan needed little urging. "The public," said Mr. Edmunds, "will recognize at once the propriety of these selections, embracing all sections of the Union, and at the same time maintaining the desired political equipoise of the Commission." This was said in the most impartial tone of the Senator. His attitude was that of one who would not bend to the right nor to the left. He was polar in the frigidity of his rectitude. What could be fairer than a geographical plan set off in judicial ermine, with Justice herself holding the political scales in equipoise? Mr. Hewitt was favorably impressed. "I can see," he said, "that this plan is less embarrassing in that it leaves the selection of the fifth judge between the two senior judges, Swayne and Davis." Judge McCrary thought that the suggestion of the Senate committee was exceedingly felicitous. Judge Hunton, the cautious and conservative Virginian, was not quite persuaded. "Could we believe," he half soliloquized, "that this tribunal would be absolutely devoid of partisanship, we would have no hesitation; nor would we care who were taken. But we have to act on the other theory." The House committee retired for consultation. With what result afterwards appeared. Its members once more joined the Senate committee within the closed doors of the Judiciary Committee room at four o'clock that afternoon. Mr. Payne announced that with a single exception, his associates had unanimously agreed to accept the geographical proposition. That exception was Judge Hunton. He wished to think of the matter over night, before pronouncing his judgment. But the child was born. The long agony of the committee was ended. It only remained to glance at the bill by sections. Its phraseology was then scrutinized. In this task Mr. Conkling was especially happy. Mr. Morton sat moodily aside. He scowled his protest. He was silent and gloomy, like the effigy of the great Napoleon when contemplating the defeat of his veterans at Waterloo. He despised state lines. They might not fall in pleasant places. He had reason to be satisfied afterwards with the geography that made Ohio the "hub" of the Commission.

A great load seemed to have been lifted from the committees. The venerable Thurman enthusiastically declared that "the agreement of the two committees would be hailed with joy from one end of the country to the other. The effect on its business would be immediately felt." Mr. Hewitt spoke for the great commercial metropolis. He declared that it was worth five hundred millions to the country at once. Mr. Hoar's benevolent face beamed with delight. He waxed eloquent over the auspicious result. He declared that this committee action would be considered as one of the most important events of history. That the two great parties, after the heat of a quarrel over dynasties, should be able to meet deliberately and agree upon

a settlement of their differences without the shedding of a drop of blood, would, in his opinion, strike the student of history as something hardly short of miraculous. Other members of the committee indulged in like gratulations over this crowning grandeur of their work. The constitutional requirements were forgotten in the general joy. But Mr. Morton was still himself. He had no joy. He watched. He found fault with a feature of the bill which might be interpreted as conferring power on the Commission to go behind the returns. To this criticism Senator Thurman replied that the bill decided no disputed questions. It created no new powers; but it submitted all disputes to this tribunal. It submitted them with the same powers — no more, no less — that belong to the two houses of Congress, jointly or severally. "It is," he said, "as to disputed questions of jurisdiction, as non-committal a bill as could be made."

The great work is accomplished! Mr. Edmunds and Mr. Thurman are made a committee to prepare an address to accompany the submission of the bill to Congress. The members of the two committees descend the great stone steps of the Capitol as the evening shadows are falling. They go to their homes with light hearts, sincerely feeling that the country is saved from chaos by this unwonted and courageous proceeding. For the last time, the committees meet on the morning of Jan. 18, 1877. Mr. Chairman Edmunds reads the address which, in conjunction with Mr. Thurman, he had prepared. It is altered to suit various suggestions. The critical Senator from Massachusetts, Mr. Hoar, raised an objection to the phrase that "it is comparatively unimportant who is President." "In my opinion," said he, "it is of immense importance which party rules the country."—Out goes the obnoxious phrase! Senator Conkling lays down the broad proposition that it is "always unwise, in large transactions, to do anything unnecessary." He then proceeds to criticise the phrase in the address, "If such jurisdiction is not invested by the Constitution this bill creates it." He maintains that no jurisdiction was created by the Constitution which is not vested somewhere. "Can we," he asks, "by a legislative act create a jurisdiction? We may create a tribunal to exercise jurisdiction; but can we create the jurisdiction itself?" "This report," he says, "is to be put under a microscope. It is to be examined with great care. No man can vote for this bill unless he believes the power bestowed exists somewhere." Here Mr. Hoar suggests the following phraseology: "If the Constitution, requiring the exercise of this jurisdiction, does not designate a tribunal or officer to execute it, this bill provides such a tribunal." "I prefer," replies New-York's eminent Senator, "to say just what we mean. If we have that right, it is because the Constitution requires the two houses to do it, or the Constitution not making such requirement expects the law-making power to provide it. This is our pediment. Take that from under us and we are gone. This bill goes to the theory of regulating and adjusting the power already held. Mr. Hoar's

amendment implies that the law-making power is vested in the tribunal. That is not my theory. Mine is that the Constitution requires Congress to declare a President. The two houses employ this tribunal as an auxiliary, as eyes and hands. We do not delegate this power. We keep it all. This is our own ministration." Senator Bayard closes the discussion. He declares that it will be a grave error, and perhaps indefensible, if this report shall deny the vesting of power, and yet prescribe its exercise. But the committees, as a whole, are in no mood to stand on mere technicalities of language. After a long breath of suspense, the address receives all the signatures except that of Senator Morton. The two chairmen slip duplicate bills into their side pockets and repair to their respective chambers.

The fact that the committees had agreed, and that the two parties were then practically committed to the agreement, was the signal for a patriotic outburst throughout the country. The memory of 1861–'65 was too fresh for the people not to welcome any peaceful avenue of escape. They shrank from a repetition of past bloody experiences. To resist the pressure from without for the passage of the Electoral bill required a moral courage such as is vouchsafed to few legislatures. The bill went through both houses with impetuous promptitude. Its chief opponents in the Senate were Mr. Morton and Mr. Sherman; and in the House, Mr. Garfield, of Ohio, and Mr. Mills, of Texas. Almost the first response to the submission of the bill came from Massachusetts, where a prolonged struggle over Senator Boutwell's seat was suddenly ended in the triumph of Mr. Hoar. Speeches of rare eloquence and power were made for the bill in both Senate and House. Mr. Conkling spoke for two days. Among other things, he riddled to shreds the pretension that the Vice-President had the right to "count" the electoral votes. Senator Hill, of Georgia, made a speech of unusual cogency. It breathed throughout the true patriotic spirit. He favored the expedient with all his acumen and eloquence. His enthusiasm kindled a lambent flame charged with electric force. As he reached his peroration he was handed a telegram, announcing that the protracted contest for Senator in his state had just ended in the senatorial toga being again placed on his shoulders. The popular tide was now all one way. It was irresistible. What would be the consummation? The Democrats felt secure in the justice of their cause. No matter to them who might be the fifth judge whose choice was to determine the party bias of the Commission. No one doubted, however, that the choice of the fifth judge would fall upon Mr. Justice Davis. He was the only one left on the bench on whom the two Democratic and the two Republican judges could possibly unite. He was, to be sure, an unknown element, but notwithstanding this the Democrats had more confidence in his impartiality than the Republicans seemed to have. How the action of the Commission so equipoised might have eventuated must ever be a subject for speculation, and speculation only. Judge Davis, whose

political belongings were so fruitful a theme of discussion in the committees, and in whom centered alike the hopes of Democrats and the fears of Republicans, was not born to sit on the Electoral Commission. Fate had ordained otherwise.

When the proceedings had reached this harmonious stage, a cloud no larger than a man's hand was discerned in the western sky. An Illinois "Independent," not having the fear of General Logan before his eyes, cast his vote for Judge Davis for Senator. That "Independent" little dreamt that his craft bore Cæsar and his fortunes; or that he was playing the rôle of General Monk. The Illinois Democrats in the legislature, gifted with a fatuity beyond their age or generation, with a vision hardly extended beyond their physical organs, swung into line, and the news was flashed over the wires that Judge David Davis had been elected to fill the seat of John A. Logan in the Senate of the United States! That dispatch was pregnant with stupendous significance to the American people, for it meant, as the fifth judge on the Commission, Joseph P. Bradley! The Electoral bill was still pending in Congress, but had either party been then inclined to defeat it they could hardly have done so. Both parties were fully committed to it. It is not certain that either wished to recede. It was plain, however, that from that moment Democratic hopes went down, and that Republican apprehension was succeeded by confidence. Judge Davis' acceptance of the senatorial seat removed him from the list of probabilities for the fifth judgeship of the Commission.

In the further selection of the members of this Electoral Commission, and by arrangement between the two parties, the Republican Senate was to name three Republicans and two Democrats, and the Democratic House three Democrats and two Republicans. The party caucus was in each house the medium of selection. The choice of the caucus was in every case ratified by the respective houses. The four judges named in the bill had, in the meantime, as expected, selected Justice Bradley as the fifth judge. The Commission, as finally made up, consisted of the following gentlemen:

On the part of the Supreme Court: Associate Justices Clifford, of Maine; Miller, of Iowa; Field, of California; Strong, of Pennsylvania; and Bradley, of New Jersey.

On the part of the Senate: Edmunds, of Vermont; Frelinghuysen, of New Jersey; Morton, of Indiana; Thurman, of Ohio; and Bayard, of Delaware.

On the part of the House of Representatives: Payne, of Ohio; Abbott, of Massachusetts; Hunton, of Virginia; Garfield, of Ohio; and Hoar of Massachusetts.

Eight Republicans, associated with seven Democrats, were thus to sit in judgment on the electoral returns of the disputed states. Their judgment was to be binding, unless both houses concurred in overruling it.

CHAPTER XXXVII.

THE ELECTORAL COUNT OF 1877.

EVENTFUL DAYS OF HISTORY — MEETING OF THE HOUSES TO COUNT THE VOTE — FLORIDA IS REACHED — EXCITEMENT — RECESS — ELECTORAL COMMISSION MEETS — THE OLD SENATE ROOM — THE COMMISSION ORGANIZED — THE ATTORNEYS — THE JUDGMENT ON FLORIDA — JUDGE BRADLEY — HIS *NON-SEQUITUR* — *ALIUNDE* — ERMINE TAINTED — REPUBLICAN TRIUMPH — DEMOCRATIC DESPONDENCY — THE COUNT RESUMED — SOUTH CAROLINA — LOUISIANA — THE AUTHOR'S SPEECH — SPEECHES OF OTHER MEMBERS — SCATHING INVECTIVES OF JUDGE BLACK AND JOSEPH S. C. BLACKBURN — OREGON, WISCONSIN, AND VERMONT VOTES — THE CONCLUSION — THE STARS AND STRIPES LOWERED — *DE FACTO* AND *DE JURE*.

MEN will regard the year 1877 as grimed with the blackest fact and the greatest political wrong of our history. There was then repressed the greatest right pertaining to the American people. Forbearance on their part and the goodness of God, alone prevented terrible results. There is a time when, if injury be inflicted, it cannot be forgotten. There is no Lethe for the outrage. The barbed shaft rankles remedilessly and poisons forever. The season of Democratic memory will ever be the Centennial year. The volumes most cherished, handed down by Democratic ancestors, are the writings of Algernon Sidney. They were the sacred writings of one who died upon the scaffold as a devotee to his imaginary commonwealth. When he wrote for the *sanctio recti*, in the eleventh chapter of his discourses, he not only inspired such men as Rousseau in France, and Jefferson in America, but, as it should be, he made the law derive its excellency not from antiquity, nor from the dignity of legislatures, but from an intrinsic equity and justice which accorded with universal reason. He not only inspired the Declaration of Independence, but he taught that, as that which is not just is not law, so, that which is not law ought not to be obeyed. If his ideal cannot be realized in human affairs, it is none the less a moral mentor,—one never more needed than in 1877. The ideals of Plato, Harrington, Sir Thomas More, and Lord Bacon were the

delight of the author's early days; for in them were found the pole star by which all political ventures should be guided. To see our country approximate the ideal, where perfect liberty and right should find hospitality, was inspiration and pride. But the year 1877 broke the idol and destroyed the ideal. Amidst all the rough waves and dangerous rocks of the last "three decades," it has been the author's place to be on the deck; and while the star at times has seemed obscured, never yet has it been so utterly eclipsed as by the blackness of that portentous year, 1877.

No day of greater import ever came to this hemisphere than that appointed for the count of the electoral vote. Both houses meet in the great Hall of Representatives. Senator Ferry, of Michigan, President *pro tempore* of the Senate, is in the chair. Speaker Randall is by his side. The galleries are packed with men and women of the white and negro races, and of all localities. Public expectation stands upon the tiptoe of trepidation. The certificates containing the electoral votes are opened by President Ferry. He hands them to the appointed tellers. The votes of state after state, in alphabetical order, are duly recorded, now in the Tilden and now in the Hayes column. All goes serenely for a time; when lo! a wild excitement and a hush of expectation! Florida is reached! The Chair announces that from Florida there are two sets of returns. By the law under which they are acting, these two sets, he declares, must go to the Electoral Commission. Thereupon the joint convention takes a recess,—for it never "adjourns" until the count is finally completed. Each house in its own way resumes legislative business. All wait for the tribunal to which Congress has so improvidently delegated its duties.

The Electoral Commission meets in the room of the Supreme Court. It was formerly the United States Senate Chamber. Its vaulted roof, in times past, reverberated with the eloquence of Webster, Clay, Calhoun, Marcy, Benton, and Seward. The echoes of those memorable debates might even yet be heard within those historic walls, where the Commission is now convened, which is to bring so much obloquy upon the Court which is wont to sit on that bench. Justice Clifford, the senior judge, takes the chair. The fourteen others range themselves in the seats commonly occupied by the dispensers of justice. The five judges are in the centre. They are flanked on their right by the five Senators. On the left are the five Representatives. At the foot of the line, at the left, sits one who is destined to fill a large and tragic space in the history of the near future. It is James A. Garfield. On each side of this wonderful forensic battle, is an eminent array of counsel. What is the case? It is the great contention of our century. It is no private suit; not even an action between states. It concerns fifty millions of people. It enlists the talents of O'Conor, Evarts, Matthews, Merrick, Carpenter, Hoadley, Campbell, and Ashbel Green. From the first, it is evident that the chief reliance of the Republican side of the contest is the astute and

learned leader of the New-York bar, William Maxwell Evarts. If Mr. Evarts cannot make the worse appear the better reason, then is their cause vain. The first step of the Electoral Commission is to assume the regularity of the returns of the Hayes electors. This is done on the plea that they have come up under the seal of the state. Therefore the Tilden electors are classed as contestants. Another act is even more ominous. The Commission excludes all evidence "*aliunde.*" It will not go behind the returns. It will not see whether they were born of fraud. To make fraud sacred requires only a proper distribution of *prima facie* papers. Even in its earliest stages, the malign spirit of partisanship thus crops out in the Commission. The judges are not of different clay from their associates. Whether it be political or judicial, it is all of a kind.

The lawyers have finished, and the case is in the hands of the Commission. One after another, each of the members reads his opinion in secret session. Fourteen members of the Commission are heard from. Fourteen men, sworn to hear and impartially to judge, divide on a party line, — seven being quite sure that the Tilden electors from the State of Florida are regularly chosen, and that their votes should be counted in the Electoral College. Seven are just as firmly convinced that the Hayes electors have the only stamp of regularity. Justice Bradley alone remains to be heard from. All eyes are turned to the Jerseyman. Chosen as he had been, to enact the *rôle* of a non-partisan, is he not still a judge? Is not his symbol and his effigy the blind goddess, holding the scales of justice in equipoise? The Democrats of the Commission look, not without some confidence, to Judge Bradley. Would he save the Supreme Court from the threatened disgrace? Would he decide on merely partisan lines? Would his party bias bend his judgment on a question involving the most stupendous consequences ever within the jurisdiction of a court? Pale and trembling, Judge Bradley unfolds his manuscript. He begins to read. He is impressed, apparently, with a sense of the overwhelming responsibility resting upon his conscience and conduct. As he reads, Democratic hopes grow bright and brighter. Justice will dawn at last with auroral splendor. Alas! The drift of his argument leads to but one conclusion. The end is not the fruit of the promised exordium. Florida's vote, we all know, belongs to Tilden. Change! The wind suddenly veers, and Mr. Justice Bradley accomplishes a dexterous *non sequitur.* He closes with the assurance that his vote must be given to the counting of Florida for Hayes.

In "counting" the votes from the State of Florida, it was held that Congress, which had full constitutional power to "count" them, was concluded by the governor's certificate. Had not the latter been made in accordance with the decision of the returning board? Offers are made to impeach the decision of this board. It is impeachable, for want of jurisdiction to do what it did. What it did, changes the result. "I know of no tribunal," says

Judge Thurman, "high or low, whose acts, without jurisdiction or beyond its jurisdiction, are not absolutely void." And so every honest lawyer and man will aver. The county returns of Florida gave the vote to the Democratic electors. This is not disputed. The court so decided it. Every department in Florida so decided. The state remedy had been applied to correct the fraud. It was applied timely. Its results are ignored by the Electoral Commission.

The Democrats of the Commission felt the humiliation of this departure from constitutional methods. Judge Bradley would never have been guilty of such stultification unless he had deliberately decided to accept its full consequences and to gather its substantial fruits. Such an excoriation as Mr. Payne, the Nestor of the House commission, gave this unjust judge for his betrayal of the high trust reposed in him, has probably not been heard since Sheridan's philippic against Hastings. Sadder, but wiser men, were the Democratic "seven" when they marched out of the Supreme Court room that memorable afternoon. The chivalric Bayard, who in the Electoral committee had erected a lofty pedestal upon which the Supreme Court judges should stand, bore the mien of one whose illusions had been rudely dispelled. Mr. Hoar, who had, to his associates in framing the bill, scouted the idea that the Supreme Court judges would be willing to go down to history as dividing on a question of such transcendent importance on a party line, and had expressed his conviction that their bias against thus appearing in history would be infinitely greater than any mere party partiality which they might feel, smiled benignantly behind his gold spectacles. He was quite content with the bias, so long as his party received its benefit.

The air of the national capital became oppressive. A callous numbness seemed to have settled upon the national consciousness. Only the Federal office-holders breathed easier. The decision of the Commission was submitted to Congress. The Senate, by a strict party vote, concurred in it. The House, also by a strict party vote, refused to concur. Not a Republican voice was raised in either branch of Congress against counting Florida's vote against Florida's choice. Again the Senate files into the Hall of Representatives. The count is resumed. Florida's four votes are added to the Hayes column. The certificates of other states are opened and counted, until Louisiana is called.

Louisiana is found prolific of returns — not two only, but a third set also. The third set is signed "John Smith, bulldozed Governor of Louisiana." It purports to give "the proceedings of the college of electors at New Orleans of December 6, 1876." This set proves to be a joke. It is a ghastly joke, to interrupt even so grave a farce. Its reading is dispensed with; and it is ordered to be suppressed from the record. Under the law regulating the count, all papers, with the objections raised on either side, go to the Commission. That body met on Monday, February 12, and went

through the forms of judicial consideration. In the Florida case the counsel representing Mr. Tilden included such forensic giants as Charles O'Conor, Judge Black, and Richard T. Merrick. Arrayed against them, were William M. Evarts, Edward W. Stoughton, Stanley Matthews, and Samuel Shellabarger. The same counsel represented Mr. Hayes' side of the controversy in the Louisiana case; while for Mr. Tilden appeared the venerable Judge Campbell, of Louisiana, who, before the war, had himself filled an honored seat on the bench of that same Supreme Court, ex-Senator Lyman Trumbull, ex-Senator Carpenter, George Hoadley, now governor of Ohio, and Ashbel Green, an eminent New-York lawyer. A more formidable array of legal talent this country had never seen before any tribunal. Senator Carpenter prefaces his argument by disclaiming that he appears for Mr. Tilden. "He is a gentleman," said Wisconsin's late Republican Senator, "whose acquaintance I have not the honor of; with whom I have no sympathy; against whom I voted on the seventh day of November last; and if this tribunal could order a new trial, I should vote against him again, believing as I do, that the accession of the Democratic party to power in this country to-day would be the greatest calamity that could befall the people, except one; and that one greater calamity would be to keep him out by fraud and falsehood. I appear here," added Mr. Carpenter, "for ten thousand legal voters of Louisiana, who, without accusation or proof, indictment or trial, notice or hearing, have been disfranchised by four villains, incorporated with perpetual session, whose official title is 'The Returning Board of Louisiana.'" Evidence is offered to prove that more than ten thousand legal votes had to be, and had been discarded by Wells and Anderson, and the rest of the Returning Board. They were votes that had been cast for Mr. Tilden. They had been discarded by the Board in order to count out Mr. Tilden and to count in Mr. Hayes. All such evidence is ruled out by the Commission, eight to seven. It is *aliunde!* The nefarious business is duly sanctioned by the Commission, which solemnly declares that Louisiana's eight electoral votes were cast for Mr. Hayes.

How is this decision reached? By reasoning, or by — chance? When the vote began, reason closed her faculties, honor hung her head in shame. "The country," said Justice Field, "may submit to the result; but it will never cease to regard our action as unjust, and as calculated to sap the foundations of public morality." Eight for injustice — seven for morality! On the 16th of February, Judge Abbott offers to show by evidence that the Louisiana Returning Board is unconstitutional and its acts void. Another rattle of the box — eight to seven! Then that it was not legally constituted; out came the loaded dice — eight to seven! Again he offers to prove certain alleged frauds — the same rattle, eight to seven! Then no jurisdiction — eight to seven! Then that the Returning Board statements as to riot, tumult, and other wrongs, were forged by the Board, and besides, came too late, and

that more than ten thousand legal votes were thrown out—eight to seven! Then Judge Hunton moves to admit evidence that the proper returns of the commissioners of Louisiana had never been compiled or canvassed—eight to seven! Then Senator Bayard moves to hear evidence to show the ineligibility of certain electors—eight to seven! Judge Field then moves for evidence generally—eight to seven! Mr. Payne moves, in a quiet way, to strike out "not," in the resolution refusing evidence—eight to seven! Judge Thurman amends Senator Morton's "resolution that illegal votes be *not* counted, as never canvassed or declared"—eight to seven! Then the vote on Morton's resolution is taken; and then, hark to the sinister click of the remorseless handcuffs! Louisiana is thrust within the bars with her sister Florida—eight to seven! But was this the only use of the dice-box? No! Other tenders of testimony from other states were disallowed by the same cunning device. Does Judge Field offer to prove that in South Carolina, troops interfered with the free choice of the state? Rejected, eight to seven. That one thousand United States Marshals performed the same part? Rejected, eight to seven. And so on through, until the audacious farce is performed. The result gives us a *de facto* Executive, with such color of right as such arts fitly paint and adorn.

Of what use, in such a tribunal, were the gathered facts of the election, or the gathered experience of other times and nations? It was in reference to military interference that Hallam said that nothing would break down the notion of the law's supremacy, like the perpetual interference of those who are governed by another law. But he might as well have applied the law of roulette, or the chances of cards, as the "other law" for this nefarious transaction. It had neither dignity nor justice. The very lawyers laughed before the Commission, and taunted its members with scornful sarcasm for the pitiful part they were playing for party supremacy.

The decision of the Commission in the Louisiana case left but a small peg for the Democratic party on which to hang its hope. Louisiana was everywhere looked upon by most members, as Mr. Tilden's strongest position in the disputed states. If he could not hold that citadel, what could he expect? So shameless was the action of the Commission, it was by many believed that Congress could not so far forget its duty to truth and to patriotism as to give it indorsement. But when the Commission's decision comes to be reviewed by the Senate, not a Republican voice is heard in indignant protest. Even the eminent Senator from New-York, Roscoe Conkling, is dumb. When the vote is taken he is absent. Whether or not it is true that Mr. Conkling's silence is owing to his having tried and failed to secure a sufficient number of others on his side to co-operate with the Democrats to effect a reversal of the Commission's decree, certain it is that, in not raising his voice in the thunder tones of which he is so capable, in denunciation or the projected crime against popular government, the New-York Senator

abandons his greatest opportunity. He folds his arms and holds his tongue. Meanwhile the conspiracy progresses.

Upon the 19th of February, 1877, the House met under increasing excitement about the Louisiana case. The Senate had sent to the House its resolution announcing its decision—as the form was—"the objections made to the contrary notwithstanding." Gen. Randall Gibson, a leading member from Louisiana, offered an adverse order. After a speech from Judge New, of Indiana, in favor of Mr. Gibson's order, there was exhibited the first and almost the only instance of abnegation of partisanship. Professor Seelye, now the able and learned President of Amherst College, in a pithy speech declares his inability to see any justice in counting the vote of Louisiana for either candidate. He inveighs against the decision, for the pound of flesh can not be taken without its drop of blood. "No nation," he exclaims,—and his splendid vocalization startles the echo in the halls and corridors,—"ever died except by suicide." He fears imperilment to the vote of the future. A weak defense of the wrong comes from Mr. Joyce, of New England. Then a practical answer from Mr. Levy, of Louisiana. After Mr. McMahon had followed in the vein of Mr. Levy, Mr. Rice and Mr. Crapo, both of Massachusetts, as if to offset the ringing speech of Seelye, appear to champion the outrage. The writer is then assigned the floor. He yields ten minutes to Henry Watterson. The gallant Kentuckian was known to be an intimate friend of Mr. Tilden. In melancholy accents he chanted, with vaticinatory periods, those sad days, and the coming of the day of reckoning—*dies iræ*, *dies illa*. Then the writer began his brief analysis of the Louisiana case. "Peril," said he, "gives the lessons of years in a day." This judgment being foregone, the speech was made for history. As such, parts of it are here substantially reported.

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"The people of the United States, desiring unity and peace, honesty and rejuvenescence, spoke in all legal forms provided by a complicated system of electors in favor of a party whose traditions, principles, and history of honorable service have rendered it deathless, and against a new party of expedients and pretensions. That deathless party was unmistakably called to the high places of the land. It matters not who were its select exponents or candidates; and it matters not now what were its shibboleths and platforms. Whether wise or not, far sighted or not, just to all races and sections or not, prudent in economy, provident in matters of tax and *fisc* or not, organic and faithful to the rules of construction applied under the genius of our peculiar polity or not, an unquestioned popular majority of three hundred thousand pronounced for relief and change, and for the Democracy as the directing organ of that relief and change.

"Under our system of state and Federal authority, this Federal change and relief was to be certified by certain state organisms and verified by a certain procedure under our Federal Constitution.

It was early made clear by certain manœuvres and devices of politicians that the voice of the people of two, if not three, states was to be muffled, or rather that a false voice was to be heard in the land proclaiming that which was not, for that which was. It was the siren voice of Duessa, and not the blessed voice of Una. It was a voice which sounded high for state rights, like that of the actor through the Grecian mask, hollow and mocking, while at the same time it seemed to proceed from some hero or demigod raised to unusual height by the tricks of the stage.

Whether the steps were wisely or unwisely taken in framing the Electoral bill, is not to be now considered. That bill is the law. We know what it is, what its provisions are. We knew and felt that some virtue had gone out of this House when we had passed it, but we did not exactly see where the virtue had alighted. We knew the old privileges of the Commons had departed, but in the interest of peace we gave a reluctant vote for the bill.

It was voted for in a spirit of confidence and in a moment of peril, and under terror of force and revolution, which speaks more for the caution than for the pluck of our people. Still it was enacted. We are bound by its decisions, but not by its reasons. The faith of those who voted for it was strong in the integrity and purity of their case; and next in the fidelity and independence of the tribunal. We placed our faith in the ermine.

But one strange thing about the bill is this: while we are permitted to vote in this House, yet after all it is a sort of *post mortem* vote. Although we are permitted to argue, it is an *argumentum ad post factum*. Although there is some utility in the dissection of the dead, and although there may be something gained by experiments upon the living, yet it seems to me to be proper now to look at one particular clause of the law before stating reasons for making protest against this measure.

We are graciously permitted under this bill to argue after the matter is accomplished, and although we vote, and although we carry our vote in the House, we are 'gone.' We gain nothing. We are permitted to talk ten minutes after the counting and the conclusion. It is the old Virgilian line over again about Rhadamanthus, judge of hell — *Castigatque auditque dolos* — the old rule of hanging a man and trying him afterward. That is our condition to-day.

And what is it we try? Why, sir, everything as to testimony and facts and forgery and perjury and force is *aliunde* — outside — not to be considered. Truth and justice and morality and fair dealing — *aliunde*. The House is *aliunde*. All its acts and the acts of its committees and their reports, all the facts gathered in these Southern States — *aliunde!* Nothing to be considered but the bare, naked fact of a certificate, based upon what? On forgery and chicanery. On a returning board, which returned the fact that 10,400 Democratic votes were not counted; on a supervisor of registration of Louisiana, whose business was to transmit the votes, but who failed to transmit

2,900 Democratic votes. After they came, only four hours were left between the time of the organization of the board and the decision ! Where and how could the state correct such returns in that time ? It is a mockery. Why, sir, nothing but forgery and chicanery are pertinent and competent. It is said that beauty deformed and mutilated, is more hideous than natural ugliness. The Parthenon is deformed by Turkish barbarism and despoiled by Lord Elgin's archæological devotion; and so our institutions, including the high judicial tribunal, are made detestable, not merely by adventurous, barbarous, ignorant, and reckless rascality, but legal science comes in with its spotless ermine to make the spectacle a hideous deformity, by consummating the grand outrage of history. Fraud taints everything; all codes, human and divine, pursue it into every relation of society and avenue of trust.

Some member has said that he was sick of fraud, of the cry of fraud. Earth is sick, and heaven is weary of the hollow words which statesmen and judges use when they talk of right and justice, when such things can be accomplished. I tell you, Mr. Speaker, by human law there is no statute of limitations to protect fraud. It never runs for fraud. In divine law it is written, "There is no rest for the wicked." Every avenue of society, every relation of trust which fraud permeates, shall at last be investigated and the fraud made null. The time will come, if not now, in some near future, when gentlemen on the other side, who now laugh and taunt, because of this condition in which the Democrats are caught, will repent of this great crime of history of which they are *participes criminis*.

Time never runs to condone fraud, and in all God's universe there is to be ceaseless unrest for its vicious votaries. Where fraud taints and blackens, quibbles from lawyers, technicalities from judges, special snapperadoes from the intellect, are as grass before the mower. The people cannot understand why fraud should be protected. Chop logic and split hairs to the nicest division of logomachy, call in the schoolmen, make your legal syllogisms and refine your subtleties, the everlasting rule remains that where fraud is found, nullity and void follow. Foxes by no doubling or hunting, can confound the fact that fraud is the most offensive element in human society, and most to be feared when the fox takes the disguise of the ermine.

Ah! they called in the ermine to help them. The ermine is a little animal. It is an emblem of purity ; it would rather be caught than be bedraggled in the mire. Hunters put mud around its haunt to catch it. But where is the ermine now ? Ah ! the fox has become the ermine. But no cunning, no craft, no human law, no divine law, can ever condone fraud. All codes and the histories of all nations cry out against it. Crime cannot breed crime forever. Ask the people of this country. Fraud is to them an endless offense. I was about, Mr. Speaker, before the hammer fell, to refer to the holy writ, so that gentlemen on the other side may have time for repentance.

With permission of the House, I will read from Psalms xciv., 20 : 'Shall the throne of iniquity have fellowship with thee, which frameth mischief by a law?'——"

Mr. Kelley. "I object."

Mr. Cox. "The Bible is *aliunde* with these gentlemen."

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There has been no repentance. But the appellation of "Aliunde" has adhered like the mythic garment of poison to one of the justices of the Court. The multitudinous seas cannot wash out the stain upon the ermine. Professor Seelye was not alone among the Republicans in denouncing this ineffable iniquity. Ex-Mayor Henry L. Pierce, of Boston, joined him. With these two shining exceptions, the Republican party in Congress was solid as a granite mountain, in support of the infamy.

The Senators crossed the great rotunda and passed through the hall of the statuesque heroes. They again took their places in the Representatives' Chamber, along with the House. President Ferry had the gracious privilege of announcing that the two houses not having agreed to overrule it, the decision of the Commission would stand. Louisiana was then counted for Hayes.

The case of the Louisiana "count" was more flagrant than that of Florida. There was no power lodged anywhere to create the Returning Board. The board became *de facto* the legislature. It corruptly and unlawfully used a power to re-ordain what never was ordained. It assumed to perpetuate itself. It had defeated every election since 1872. It shamelessly and without any honest pretense assumed the purple of the state. It played the mock king with real power. It assumed to disfranchise voters, by a power not conferred on any body except the Judiciary. It was not even constituted according to the illegal act creating it. Out of eighty thousand Democrats in the state, no Democrat was in the board, though it was required by that act that all parties should be represented. As in Florida, so here, the board acted out of its jurisdiction, if it had any; and therefore its acts of disfranchisement were void. It was tendered in proof that there was no evidence of intimidation and fraud (which were the pretext for disfranchising ten or twelve thousand voters) accompanying the returns as required by the illegal statute creating the usurping board; and that such statements as were irregularly used were corruptly fabricated by the board itself in New Orleans, weeks after the election. The returns of the obsequious supervisors — "consolidated," as they were called — were ostensibly canvassed to cheat, when no such canvass was allowable; while the returns of the commissioners of elections should have been the only basis — if there was any — upon which to act.

Rebutting testimony — "reluctant quarto upon solid folio" — was offered, to show conspiracy, perjury, subornation of perjury, forgery, and bribery.

But it was held by this Commission, that the men named by this board were *de facto* electors, because they were not ousted *de jure* by the courts; and that, too, although the courts had no opportunity to oust them; and that neither courts nor Congress could right the wrong. An Ossa of wrong was piled on a Pelion of fraud — each ascending mass worse, if possible, than the lower stratum! Yet, with this accumulation, we were expected to accept what we could not consent to approve! When Rousseau contended, in his Social Compact, that if there be sovereigns, one of right and the other of fact, the social union immediately vanishes and the body politic is dissolved, he could not have contemplated a case more flagrant than the present Federal authority, constituted through such malign agencies.

It was hard to restrain the men who were on the rack from crying out in defiant protest. A few extracts from the splendid philippic of Judge Jeremiah S. Black, will illustrate the spirit of that time. He spoke of his sense of degradation and humiliation as an American citizen, by the wear and tear of conscience which these forgone conclusions indicated. His irony and sarcasm were only equaled by his terrific invective. In addressing the "eight" commissioners, he said: "Perhaps the feeling which I in common with millions of others entertain on this subject, prevents us from seeing this thing in its true light. But you are wise; you are calm. You can look all through this awful business with a learned spirit; no passionate hatred of this great fraud can cloud your mental vision or shake the even balance of your judgment. You do not think it any wrong that a nation should be cheated by false election returns. On the contrary, it is rather a blessing which heaven has sent us in this strange disguise. When the omnipotent lie shall be throned and sceptered and crowned you think we ought all of us to fall down and worship it as the hope of our political salvation. You will teach us and perhaps we will learn (perhaps not) that under such a rule we are better off than if truth had prevailed and justice been triumphant. Give, then, your cool consideration to these objections, and try them by the standard of the law. I mean the law as it was before the organization of this Commission. I admit that since then a great revolution has taken place in the law. It is not now what it used to be. All our notions of public right and public wrong have suffered a complete *bouleversement*. The question submitted to you is whether the persons who gave these votes were 'duly appointed.' Duly of course means according to law. What law? The Constitution of the United States, the acts of Congress passed in pursuance thereof, the Constitution of South Carolina and the authorized acts of her legislature — these taken all together constitute the law of the case before you. By these laws the right, duty, and power of appointing electors is given to the people of South Carolina; that is to say, the citizens of the state qualified to vote at general elections. Who are they? By the Constitution of the state, in order to qualify them as voters, they must

be registered. The registry of a native citizen is a *sine qua non* to his right of voting, as much as the naturalization of a foreigner."

After showing that the legislature never passed any law for the registration of voters, and that no registration of them was ever made, he said that the object and purpose of such omission was fraudulent and dishonest; for the Legislature as well as the executive department of that government has been in the hands of the most redemptionless rogues on the face of the earth: and that whatever may have been the motive, nobody could doubt that the legal effect of that omission was to make the election illegal. He contended that the election itself, emancipated from all law and all authority, was no better than a riot, a mob, a general saturnalia, in which the soldiers of the United States Army cut the principal as well as the decentest figure. "We offer to prove" said the eloquent jurist — "that every poll in Charleston County, where they rushed into the ballot-box seven thousand majority, was in possession of the soldiers. A government whose elections are controlled by military force cannot be republican in form or substance. For this I cite the authority of Luther *vs.* Borden, if perchance the old-time law has yet any influence. Do you not see the hideous depth of national degradation into which you will plunge us if you sanctify this mode of making a President? Brush up your historical memory and think of it for a moment. The man whom you elect in this way is as purely the creature of the military power as Caligula or Domitian, for whom the pretorian guards controlled the hustings and counted the votes. But then, we cannot get behind the returns, forsooth! Not we! You will not let us. We cannot get behind them. No. That is the law, of course. We may struggle for justice; we may cry for mercy; we may go down on our knees, and beg and woo for some little recognition of our rights as American citizens; but we might as well put up our prayers to Jupiter, or Mars, as bring suit in the court where Rhadamanthus presides. There is not a god on Olympus that would not listen to us with more favor than we shall be heard by our adversaries.

"You see why we are hopeless. The present state of the law is sadly against us. The friends of honest elections and honest government are in deep despair. We once thought that the verifying power of the two houses of Congress ought to be brought always into requisition for the purpose of seeing whether the thing that is brought here is a forgery and a fraud on the one hand, or whether it is a genuine and true certificate on the other.

"But while we cannot ask you to go back behind this certificate, will you just please to go to it — only to it — not step behind. If you do you will find that it is no certificate at all such as is required by law. The electors must vote by ballot, and they are required to be on oath before they vote. That certificate does not show that either of those requirements was met, and where a party is exercising a special authority like this they must keep strictly within it, and you are not to presume anything except what appears

on the face of their act to be done. This great nation still struggles for justice; a million majority of white people send up their cry, and a majority of more than that number of all colors demand it. But we cannot complain. I want you to understand that we do not complain. Usually it is said that 'the fowler setteth not forth his net in sight of the bird,' but this fowler set the net in sight of the birds that went into it. It is largely our own fault that we were caught. We are promised — and I hope the promise will be kept — that we shall have a good government, fraudulent though it be; that the rights of the states shall be respected and individual liberty be protected.

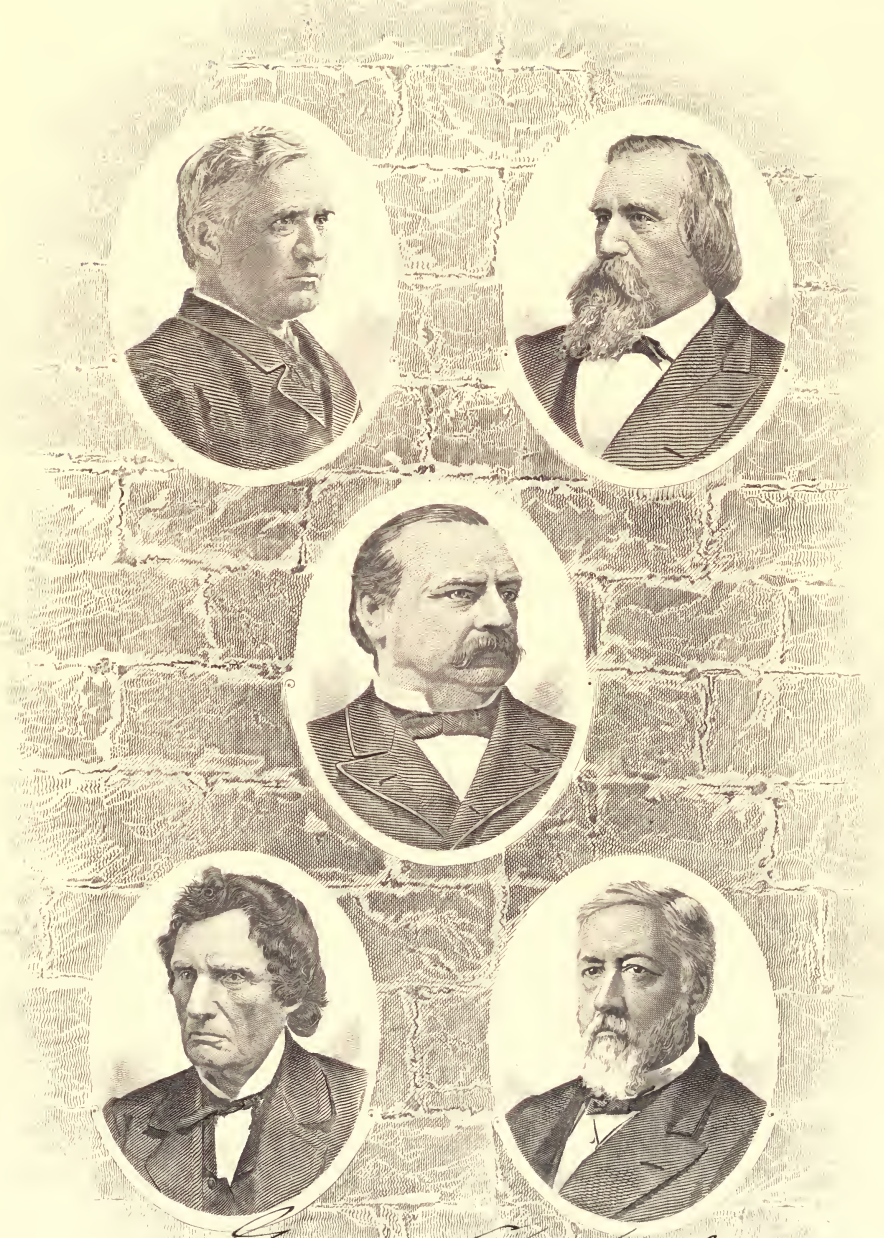
"They offer us everything now. They denounce negro supremacy and carpet-bag thieves. Their pet policy for the South is to be abandoned. They offer us everything but one; but on that subject their lips are closely sealed. They refuse to say that they will not cheat us hereafter in the elections. If they would only agree to that; if they would only repent of their election frauds and make restitution of the votes they have stolen, the circle of our felicities would be full. If this thing stands accepted and the law you have made for this occasion shall be the law for all occasions, we can never expect such a thing as an honest election again. If you want to know who will be President by a future election do not inquire how the people of the states are going to vote. You need only to know what kind of scoundrels constitute the returning boards and how much it will take to buy them. But I think that even that will end some day. At present you have us down and under your feet. Never had you a better right to rejoice. Well may you say, 'We have made a covenant with death, and with hell are we at agreement; when the overflowing scourge shall pass through, it shall not come unto us: for we have made lies our refuge, and under falsehood have we hid ourselves.' But nevertheless wait a little while. The waters of truth will rise gradually, and slowly but surely, and then look out for the overflowing scourge. The refuge of lies shall be swept away and the hiding-place of falsehood shall be uncovered. This mighty and puissant nation will yet raise herself up like a strong man after sleep and shake her invincible locks in a fashion you little think of now. Wait, retribution will come in due time. Justice travels with a leaden heel, but strikes with an iron hand."

Were there ever more burning, blistering words before such an insensate tribunal? Whither had reason fled, if not to brutish beasts bent on satisfying their lust of power? This grand old statesman of Pennsylvania, who had honored the nation as its Secretary of State and his commonwealth as its chief justiciary, was driven to the Book of Books, "the book of the avenging Jehovah," to voice in our own tough Teutonic tongue, his *anathema maranatha* against these spoilers of our elective liberties and these abettors of every crime in the calendar. Meanwhile a determination to

resist by all parliamentary means the consummation of the conspiracy was daily growing among certain elements in the House. Dilatory motions, known in common parlance as "fillibustering," were made at every step of the count. The avowed object of the fillibusterers was to prevent the count from being completed by the 4th of March. In that case, it would be the duty of the House to proceed, by states, to choose a President. The choice would, of course, be Mr. Tilden.

The scenes in the House were at times intensely exciting. The country seemed to be bordering on a revolution to be inaugurated in the Hall of Representatives. Mr. Speaker Randall was almost powerless to preserve order. The sound of his gavel, which he wielded with tremendous energy, was lost in the general din and uproarious demands for recognition. It was in one of these exciting episodes, when every member was on his feet angrily and vociferously shouting "Mr. Speaker!" that Mr. Beebe, of New-York, sprang upon his desk, and stood upright, in wild gesticulative pantomime. Mr. Speaker Randall's resolute course during this memorable epoch may have saved the country from consequences even more serious than a fraudulent Presidency. But the Rubicon is passed, when South Carolina is added to the Republican column. The fight is kept up hopelessly. A stand is made on Oregon, and even on Vermont; but there is little heart left. The contestants—and among them is the author—feel that the die is cast. By a curious reversal of principle, the governor's certificate, so sacred in Louisiana, loses its sanctity in Oregon. There, that official chances to be a Democrat. Mr. Tilden has but one electoral vote to gain, beyond the 184 conceded to him, to assure his election. That all essential one vote is supplied in the package of three which came under seal of the governor of far-off Oregon. Consistency, with its precious rulings against going back of the returns, requires the Commission to count that vote for Mr. Tilden, not inquiring into its merits or its demerits. But that will not answer. It would defeat the conspiracy. So by dexterous juggling and cunning sophistry, not intelligible to plain people, it is ascertained that in Oregon it is not the seal of governor, but that of the secretary of state, which gives sanctity to the electoral returns. And so Oregon goes with the rest. Was there ever provocation so great met by self-restraint more patriotic?

The 4th of March is close at hand. The count lacks something of being completed. The cool assurance of the Republican leaders shows that they have their victim in the toils. This does not mitigate Democratic exasperation. But aside from a slender protesting minority in the House, there is a general concurrence that the count must be finished. Its bitter fruits must be accepted. No time is to be lost, if the great conspiracy is to be crowned with success. The 1st of March is here. Wisconsin, the last state in the list, remains to be counted. Objection is made on the part of the Democrats. The vote of Elector Downs is challenged. He had an office of trust and



T. F. Bayard

L. Q. C. Lamar

Thaddeus Stevens

James G. Blaine

DIPLOMATS & STATESMEN.

profit. He was a pension surgeon under the United States, and was, therefore, constitutionally ineligible. It is an objection raised against hope. The House sustains, the Senate overrules. Under the law creating the Commission and regulating the count, this Wisconsin vote is counted for Hayes. But this is not done without a protracted struggle. The House remains in continuous session from twelve o'clock noon to four o'clock the next morning. It is then prepared to notify the Senate of its readiness to proceed with the count. All through the long night the galleries are crowded. The writer recalls the intense feeling, amounting to agony, among members and spectators. The all absorbing interest is manifested by an unusual hush and attention. Dramatic scenes are not infrequent. Friday, March 2, is ushered in. Joseph S. C. Blackburn, now Senator, was then a member from Kentucky,—a state where oratory seems to be indigenous to the soil. He rises to pronounce a diatribe appropriate to the act about being completed. "Mr. Speaker," said the successor of Henry Clay, "Mr. Speaker, the end has come. There is no longer a margin for argument, and manhood spurns the plea of mercy, and yet there is a fitness in the hour that should not pass unheeded. To-day is Friday. Upon that day the Saviour of the world suffered crucifixion between two thieves. On this Friday constitutional government, justice, honesty, fair dealing, manhood, and decency suffer crucifixion amid thieves. It was on that day that this Presidential fraud received its nomination at the hands of the Republican party. It was upon that day as it recurred, that every determination reached by the blistered, perjured miscreants that constitute the majority of that Commission has been promulgated to the country. It is on that day that you propose to consummate your iniquity and foist into a place of power him whom the people of the land have spurned, scorned, and rejected at the polls. If it must be, it is well that it should occur here and now; but it is well, also, that before the day is finished the truth should be vindicated and the record should show upon whom the responsibilities rest."

The hands of the clock point grimly to four o'clock and five minutes when, on the morning of March 2, 1877, the door-keeper announces the Senate of the United States. That body enters the hall. It is headed by its President *pro tempore*, and accompanied by its Sergeant-at-Arms, and door-keeper. The action of each house on the objection to the Wisconsin certificate is reported. President Ferry says: "The two houses not having concurred in the affirmative vote to reject, the vote of the State of Wisconsin will now be counted." "Tellers, announce the vote of the State of Wisconsin." This is done. He proceeds: "This concludes the count of the thirty-eight states of the Union." "The tellers will now ascertain and deliver the result to the President of the Senate." "In announcing the final result of the electoral vote," added President Ferry by way of caution, conscious of the tension of the popular mind, "the Chair trusts that all present, whether on

the floor or in the galleries, will refrain from all demonstrations whatever; that nothing shall transpire on this occasion to mar the dignity and moderation which have characterized these proceedings, in the main so reputable to the American people, and worthy of the respect of the world." The request is observed. In five minutes from the time of entering the hall, the declaration is pronounced that Hayes and Wheeler have been elected President and Vice-President. The Senate now files out of the hall. One minute later, the House refuses Mr. Atkins' request to "take up the army appropriation bill." It adjourns and the weary crowds of nocturnal watchers wend their weary way in the early dawn of that March morning homeward. The stars and stripes, which for thirty days had floated uninterruptedly over the Capitol, denoting a continuous session, are appropriately lowered.

Then for the first time in our history sprang into existence, new and peculiar relations in our polity. They are epitomized in two Latin phrases —*de facto* and *de jure*. These terms were then more familiar to other nations than to us. Was it not Daniel Webster who, in speaking of the Great Charter, said, "though it was written in a dead language, it was vital with liberty?" *De facto* and *de jure*, discordant as they seem in sound and sense, should be one; and both should be concordant with freedom. The genius of good government is in making them interchangeable. By melting fact into right, the actual into the ideal, Practice walks hand in hand with Justice. It is then that we have Utopia. It is then that we have the *ne plus ultra* of our political hopes. It is then that fact is founded upon undimmed and unchangeable relations. It is then that both are eternal. Right cannot move except in harmony with its omniscient Author. Facts isolated may be transient, temporary and ill-omened. The shifting, treacherous waves symbolize them, but beneath repose the everlasting deeps of Right. What do we mean by *de jure* and *de facto? De jure* means by right, by justice, or by law, as distinguished from that which is existent, irregularly, and temporarily. *De facto*, as the word signifies, is something made—*factum*. We speak of something manufactured, like a threshing machine, or an electoral return, when distinguished from that which is essential. In one case, the man who uses the machine without the patent right is no less a trespasser than the one who holds an office upon a false, manufactured return, made to order. It is still believed by more than one-half of our people that the fact accomplished in the formal inauguration of a *de facto* President, and in the repression of the popular choice, was an outrageous wrong. All nations have an abstract right to be free. But the divine order which establishes this right is almost universally violated. Few nations and few men are *de facto* free. This is because of ignorance, violence, selfishness, treachery, and tyranny. During our Civil War, the Southern States, when out of their Federal relation to the Constitution, were regarded by all as *de facto* regular states, if not by all, as *de jure* states.

The states preserved their statehood, and even when irregular governments subvened, the temporary local governments remained. Why? For human convenience and necessity; because worse might or would have happened: for must not courts run, debts be collected, and prisoners be tried, acquitted or convicted, and murderers hanged? Must not judgments be entered, property transfers executed, marriages performed, production go on, that subsistence may be had, and all the duties and responsibilities of a *quasi* government, as the agent of society, be exercised, if only temporarily? He who would propose to crush such a wise arrangement, or to upturn such results would bastardize the issue of marriages, unsettle honest titles, and declare the hanging of the murderer to be itself murder. He would be the enemy of mankind. The rule *de facto* in such stress, is, therefore, justifiable. It is justified by publicists and courts, by reason and right; for when the interests of the people — of the young and innocent, especially, and of society generally — are jeopardized by human passion and selfishness, a government of some kind is necessary to their defense and protection.

It frequently occurs, as in the case of Don Carlos, in Spain, or as in the case of the rival claimants for the French crown, that divers dynasties make contest. Bewildered subjects are expected to fight under the ensign of one or the other, all swearing, like good knights, to avouch the quality of the title which appears to them. For years England divided under the emblem of the Rose; and each adherent was ready, to the death, to contend for the peculiar aroma, hue, and beauty of his favorite. Such contests arise from the nature of human society and the self-preferences of the few, competing against each other. They depend, as in France, upon the Salique law, which forbade women the throne; or, later, upon the selfish caprices of the citizen, or a *coup d'etat* by an Emperor. In America, peace depended on a fateful day upon the submission of the Democratic party to the decree of an Electoral Commission of doubtful legality, based on the frauds of a notoriously corrupt and unconstitutional returning board.

In so far as the question of the legitimacy of the acting Executive, Rutherford B. Hayes, was concerned, it had no foreign or hereditary aspect. All the nations, by the *jus gentium*, recognized him; and, for certain purposes, all the people of this country also. He held the emblems and reins of power. Congress had to hold its co-ordinate relations with him, or with no one. No armed or other conflict pretended to test his title. There was no attempt to do so. Was there any constitutional or other provision, by *quo warranto* or otherwise, to test it? It was doubted whether any constitutional power existed to use that writ, even if a law for it were passed. It was an anomalous hiatus. Adequate provision is made in many of the states to test the title of their chief executive. In Ohio and New-York a *quo warranto* suit may be instituted by the competing candidate, and a judgment ousting the incumbent may be extended to the seating of his com-

petitor. In Wisconsin, the supreme court, through Chief Justice Whiton (4 Wis., 792), declared that the election, and not the canvass, of the votes determined the right to office. The Court went behind the canvass, and, on the just principle, *ubi jus*, *ibi remedium*, took jurisdiction to declare the respondent chosen. If remedy be found for a wrong to one of the members of our Union, why not for a wrong to the whole body? The protest of the popular branch of Congress remains. That body, by resolution, declared that the State of Florida had given its votes for the Democratic candidates. On the 3d of March, in a most solemn resolution, offered by Mr. Knott, of Kentucky, it declared, by 146 to 82, that they were duly elected. In spite, therefore, of the action of the Electoral Commission and the farce of its confirmation by the Senate, the defeat of the Presidential succession, at least *de jure*, was of such gravity that no lapse of time can suppress, no sneer belittle, and no compliance with Democratic policy obliterate the criminality of those who plotted for it. How far may discussion of that crime be opened for historic reference? How many anodynes may be given to drug it to sleep? Is it now too late to expose wrong, even if it cannot be repaired or punished? Time cannot so veneer it as to make it right. The question will recur: "Had not the Democrats the true majority in the Electoral College?" Is it argued, that by the mode of its ascertainment — by the Electoral Commission — this question was decided authoritatively? In answer, let it for a moment be assumed that the Commission was authorized by the Constitution. However doubtful the right of Congress to delegate to such a body the duty delegated to itself; however uniform the practice and certain the duty, that each house held the negative on the count of any state; however unwise to give the power away to a third body, even if the power to devolve it existed; nevertheless the fact remains, that the question of who was or was not the choice of the Electoral College was never decided! The truth was never declared, nor pretended to be declared. It was ignored — deliberately and intentionally. It was avoided. That Commission ostensibly passed only upon certain papers furnished them by the President of the Senate. These papers were merely *prima facie* writings of those interested in the result certified. The Commission did not entertain the merits. It did not allow the impeachment of falsehood, nor the rebuttal of concocted certificates. To have done so would have conferred right and repressed wrong. It would have executed the will of the States and the People — the *summa jura imperii!* That will was not executed, and hence the relations *de facto* and *de jure* hung in ominous unrest for four years over the land.

CHAPTER XXXVIII.

PRESIDENT HAYES' ADMINISTRATION AND ITS RESULTS.

MR. HAYES' QUALITIES — HIS FORMER POPULARITY — QUESTIONS DURING HIS ADMINISTRATION — SILVER AND GOLD — RESUMPTION OF SPECIE PAYMENTS — RESUMPTION OF CONSTITUTIONAL STATE GOVERNMENT IN THE SOUTH — REPEAL OF THE BANKRUPTCY ACT — PARTY PLATFORMS — GENERAL GRANT — GENERAL HANCOCK, AS SOLDIER AND CIVILIAN — GARFIELD SUCCEEDS HAYES — HIS CAREER — HIS INAUGURATION — HIS LEADER IN THE CABINET, BLAINE — THE ASSASSINATION OF PRESIDENT GARFIELD — ARTHUR'S ACCESSION — THE NOTABLE EVENT OF HIS ADMINISTRATION — PENDLETON'S CIVIL SERVICE REFORM BILL.

THE result of the electoral count of 1877 did not dishearten the Democratic people and party. It stimulated them to renewed exertion. The administration of Rutherford B. Hayes, as has been shown, was that of a *de facto* Executive. As such he was the nineteenth President of the United States. He was lacking in certain elements of power. He was a man of amiable and complaisant disposition. He and the author of this book, practiced law together, at Cincinnati, in their early days. He won a fair reputation as a lawyer; but he won more reputation in the Civil War, by honorable service in the Union cause. He became a major-general. He was elected to Congress in 1864, while in the field. It was his success in contesting the gubernatorial chair with Allen G. Thurman in 1869, and his re-election in 1875, that gave him the good or the ill fortune of the nomination for the Presidency at Cincinnati, in 1876. His inaugural utterances were suave and plausible; but they did not conciliate the vindictive feeling which his peculiar accession to power occasioned. His best purposes were nullified. Had he refused to accept the office of President in 1877, in all probability he would have been the Executive for eight years after 1880. The era of good feeling did not come in his administration, because of the questionable character of his credentials. He had able men in his cabinet. Such men as Evarts, Sherman, McCrary, Thomp-

son, Schurz, Devens, and Key are rarely matched for executive skill and art. During his term there was much trouble connected with the labor movements.

In 1877, the agitation for the remonetization of silver disturbed the finances of the country. By the first coinage regulations the standard unit of value was the American silver dollar. The act of April 2, 1792, which established the Mint, designated the coins of the United States. The gold coins were "Eagles," "Half Eagles," and "Quarter Eagles." The silver coins were "Dollars or Units,"— each to be of the value of a Spanish "milled dollar" (the same that was then current), and to contain 371 1-4 grains of pure silver or 416 grains of standard silver; "Half Dollars," of half the value of the dollar or unit; "Quarter Dollars," of one-fourth the value of the dollar or unit. There were "Dimes" and "Half Dimes" of proportional value, and "Cents" and "Half Cents." The eagles were "each to be of the value of ten dollars or units," and to contain 247 1-2 grains of pure or 270 grains of standard gold. The half and quarter eagles were to be of proportional weight and value. Coinage was free, and all gold and silver coins of these denominations were declared to be "a lawful tender in all payments whatsoever." The same act prescribed that "the money of account of the United States shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and mills or thousands."

The standard for all gold coins of the United States was fixed by this act; eleven parts in twelve of the entire weight of each coin were to consist of pure gold, and the twelfth part of alloy, the alloy to be of silver and copper in convenient proportions, not exceeding one-half silver. The standard fixed for all silver coins was 1485 parts fine (pure) silver, to 179 parts alloy, the latter to be wholly of copper. The proportional value of gold to silver in all United States coins was fixed at fifteen to one, according to quantity in weight, of pure gold or pure silver; that is to say, every fifteen pounds of pure silver was to be of equal value in all payments with one pound weight of pure gold, and so in proportion as to any greater or less quantities of the respective metals.

By the act of Jan. 18, 1837, the standard for both gold and silver coins was thereafter to be nine hundred parts of a thousand of pure metal, and one hundred of alloy, the alloy to be the same as that previously prescribed. The weight of the silver dollar was fixed at 412 1-2 grains, and that of the gold eagle at 258 grains. The smaller denominations were to be of proportional weights, and the gold and silver coins issued under both acts were made a legal tender at their nominal value for the payment of all debts. This act provided for the coinage of gold double eagles and gold dollars of proportional weights, and it made these new coins also a legal tender. By the act of Feb. 21, 1853, the weight of the silver half dollar was reduced to 192 grains, and that of the quarter dollar, dime, and half dime, pro-

portionally; and the legal tender quality of these coins was limited to sums not exceeding five dollars.

By the "coinage act of eighteen hundred and seventy-three," — which repealed all previous acts in relation to the mint and coinage that were inconsistent with its provisions — the standard silver dollar was omitted from the coinage of the United States. The silver coins authorized in this act, were: the "trade dollar," the half dollar, quarter dollar, and dime. The weight of the "trade dollar" was fixed at 420 grains, troy, of the half dollar at twelve and one-half grammes, of the quarter dollar at six and one-fourth grammes, and of the dime at one-fifth of the half dollar. The standard for both gold and silver coins was not changed, except that the alloy for the gold coin might be wholly of copper, or have one tenth part of it silver. The weight of the gold coins was fixed at,—516 grains for the double eagle, 258 grains for the eagle, 129 grains for the half-eagle, seventy-seven and four-tenths for the three dollar piece, sixty-four and one-half grains for the quarter eagle, and twenty-five and eight-tenths for the gold dollar. These gold and silver coins, and none other, were thereafter to be issued; and, except the trade dollar, and silver for sums of five dollars, gold was the only coinage that had a legal tender quality affixed to it by law, under this act. By the joint resolution, approved July 22, 1876, the legal tender quality of the "trade dollar" was abolished, and the Secretary of the Treasury was authorized to limit its coinage "to such an amount as he may deem sufficient to meet the export demand for the same."

The effect of these acts was to make the gold dollar, of 25.8 grains, the single standard unit of value in this country. Other fiscal measures came into operation during Hayes' administration. The author, by the grace of Mr. Speaker Kerr, was chairman of the Banking and Currency committee. It was a perilous post for one not accomplished in fiscal philosophy by banking experience. The chief among these measures was that passed in January, 1875. It was known as the Resumption act. It declared that on the 1st of January, 1879, the government should begin to redeem its outstanding legal-tender notes in coin. The question then arose as to the meaning of the word "coin." Did it mean gold and silver, or gold only? Then came the inquisition as to the legislation of 1873 and 1876 by which the privilege of paying debts in silver had been taken away. The gold dollar seemed paramount. Remonetization of silver became a shibboleth and an issue. Speculation had resulted after the Resumption act in 1875. It seemed as if the debtor class had entered upon hardship. Panics became imminent. Ruin stared the debtor in the face. The Bankruptcy act was repealed in 1878; but as resumption came near, confidence began to be restored. Notwithstanding all prophecies to the contrary, better times supervened.

In 1878, Congress passed an act for the restoration of the legal quality of the old silver dollar. By the act of Feb. 28, 1878, it again became lawful

to coin "silver dollars" of the weight of 412 1-2 grains Troy "of standard silver, as provided in the act of Jan. 18, 1837," with the devices and superscriptions prescribed by that act. This act of 1878 provided that the new silver dollar, together with all silver dollars theretofore coined by the United States of like weight and fineness, should be a legal tender at their nominal value "for all debts and dues public and private except where otherwise expressly stipulated in the contract. A subsequent act abolished the coinage of the twenty-five cent silver piece.

Coinage of the silver dollar was begun at the mints under the act of 1878, at the rate of not less than two millions a month. This law was passed over Mr. Hayes' veto. Both parties voted for it. The old double standard was restored. On the 1st of January, 1879, the resumption of specie payment was formally accomplished. Monetary affairs began to settle down steadily. Legitimate business became possible on the old steady monetary unit. The most notable events of Mr. Hayes' administration were the resumption of specie payments, and the resumption of constitutional state government in Louisiana, South Carolina, and other southern states. As to the latter event, it came as a necessary incident to the peculiar circumstances attending the proceedings for counting him in as the *de facto* President.

Again the Presidential election year rolled around. The year 1880 saw the Republicans struggling at Chicago to select a candidate who could carry the country. They were divided closely, between General Grant and Mr. Blaine.

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The author has forborne to treat of the wonderful career of General Grant in the period covered by this volume. The forthcoming Memoirs, written under such pathetic circumstances, in the valley and shadow of death, can alone do justice to the motives and actions of that greatest general of modern times, who conquered as much by his generosity as by the sword. It was the proudest moment of the author's life when he exerised the privilege of voting for the restoration of General Grant to that place in the army which so many of his best friends regretted that he had ever left to enter the less congenial field of political strife. He was twice called to the Presidential office. The issues of that period were bitter, and passion was rife between the parties. The soldier-president, with all his ability to command, and patriotic desire for "Peace," found a spirit of turbulence and defamation in the ranks of his own party too great for even his genius to quell. It became his duty, as president, to enforce laws against his countrymen that were utterly inconsistent with his own chivalrous and generous policy as a victorious general. The Democratic leaders too often forgot this in the heat of debate, and in their vigorous denunciation of bayonet rule in the South. But it remained with those of his own household of faith,—those upon whom he had heaped honors,—to seek by dark and devious ways to malign and defame his personal honor. General

Grant has outlived all such mean detractions, and their authors have sunk into the obscurity to which patriotic indignation and public opinion have consigned them. Modest as a man, great as a general, noble as a patriot, General Grant has a place in the hearts of his countrymen which hate, nor malice, nor envy can ever reach. His name will go down to all time associated with that of Washington and Lincoln, as the defender of American liberty and preserver of the Union. It is a matter to be regretted, in the author's estimation, that General Grant's name was allowed to be presented at the Chicago Convention of 1880. The author feels assured that it was not because of a selfish ambition on the General's part that he permitted his friends to ask for a third nomination for the Presidency. If he felt that he needed a vindication from charges that were dishonorable, he needed it not, for they were false. If he felt that he would like an opportunity to correct some mistakes of his former administration, he needed it not, for no man, however great, is above making mistakes. Only a precedent which has been fixed for all time prevented his nomination and election for a "third term" of the Presidency. This inviolable precedent was the sunken ditch into which "the old guard" charged in unfaltering devotion to a chieftain who never knew surrender. A more gallant contest was never fought in any convention in our political history than that in which Blaine and Conkling were the leaders of the rival hosts. It would be presumption on the part of the author of the THREE DECADES to attempt a review of General Grant's military career, or to discuss his motives and actions as a statesman and private citizen. It is sufficient here to say that modesty and greatness of soul, noble generosity, and pure disinterestedness, readiness, frankness, and the best impulses of patriotic devotion in all spheres of action and life, have ever been the characteristics of Gen. Ulysses S. Grant. His name and fame will grow in splendor with the generations that are to come. In this hour of his affliction, a universal sympathy draws the hearts of his sorrowing countrymen around his dying couch into a nearer and better Union. What a solace this knowledge must give to his departing days! How small the glory of martial or executive honors, compared with this crowning bliss!

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The two grand divisions at Chicago were finally reconciled upon James A. Garfield, of Ohio, who was one of the strongest and most distinguished men of his party. He had won fame in the field, the forum, and upon the sacred rostrum, and was deservedly popular. The congressional elections of 1878 had been adverse to the Republicans. But the census year was one of bounteous harvests and great prosperity; therefore the latter party appealed to business interests" to prevent a change of policy. The Republican National Convention was held on the 2d of June. The platform was elaborate. It was a code of memories, if such a stately reminiscence of party events can be called a code. It placed high above state rights, the doctrine of Nation-

ality. It made "protection" dominant. It cleverly avoided the question of finance. It arraigned the Democratic party. With James A. Garfield was associated Chester A. Arthur of New-York, upon the ticket. The ticket commanded talent and means. It had a terrible ordeal, but it succeeded.

Upon the 22d of June, the Democratic National Convention convened at Cincinnati. Its platform re-stated the old philosophy of the party, with its doctrines and traditions. It opposed the tendency of the Republican party to centralize government. Its metallic plank had the right ring. It advocated a tariff for revenue only. It held aloft the banner of a free vote. It gave a splendid encomium to Samuel J. Tilden. It had no equivocal statement as to free ships. It pointed to the acts of the Forty-sixth Congress as a superb illustration of a Democratic triumph. Upon this platform were placed Gen. Winfield Scott Hancock, of Pennslyvania, for President, and for Vice-President, William H. English, of Indiana.

There was a "Greenback" nomination of Gen. James B. Weaver, of Iowa, with a platform of principles which had many admirable anti-monopolistic features. This platform had also many popular appeals to a public sense of justice which were all the greater in emphasis, because of the lack of popular appreciation of their necessity. But the contest was not tripartite. It was a duel between the two great parties. It was the solid South against an almost solid North with the inevitable result. Some of the ablest leaders of the Democratic party, including such men as Governor Seymour, addressed the people in favor of General Hancock and his civil record, and against the doctrines of General Garfield's letter of acceptance and the Republican platform. It was something magnificent to proclaim — that record of General Hancock as a civil governor, along with his record as a soldier. As a temporary governor in the southwest after the war, he was beyond comparison for civic ability. He based his politics upon the teachings and purposes of the Constitution. He had learned lessons in statesmanship in an atmosphere untarnished by personal ambition. He was as far above the scandals which tarnished so many brilliant careers, as he was above the grasping designs of the satrap. He had fought on many battle-fields. At Gettysburg with rare and striking bravery, he had added to the glory of his effulgent career. But it was what he did in Louisiana and Texas that quickened every heart with the impulses of freedom; for, upon reviewing the history of his difficulties in governing those states after the war, all lovers of liberty considered that he should wear a civic crown to immortalize his sterling worth. When armed with unrestrained military power, he was animated with the grand abnegation of the best men of all republics. He copied the splendid deeds of Washington and Jackson. He wrote, thus inspired, these patriotic and glorious words: —

"If called to the Presidency, I should deem it my duty to resist, with all my power, any attempt to impair or invade the full force and effect of the

Constitution, which in every article, section, and amendment is the paramount law of the land."

Was not such a man fit to exercise the authority to which he bowed? Had he not proved his devotion to his country upon the battle-field? Had he not proved that he was worthy of the nomination, and of an election, too, which all thought would be accomplished in that fall of 1880? The election disappointed every Democrat. It is thought by some that General Hancock lost his election by tampering with the tariff thought of the people in some inconsiderate and local allusions. It is thought by others that the Republicans carried the election by the corrupt use of money. Whatever put in peril the ascendency of the Democratic party, the election resulted in the choice of Garfield and Arthur. These candidates received 214 electoral votes, including all the votes of the Northern States, except those of New Jersey and Nevada, and four out of the five votes of California. Only 155 votes, including those of all the Southern States, were given for Hancock and English. The aggregate of the vote for General Weaver and his colleague on the "Greenback" ticket was 307,000, against 81,000 cast for Cooper and Carey, of the same financial platform, in 1876.

When the term of Mr. Hayes expired, on the 4th of March, 1881, General Garfield succeeded to the Presidency by lawful election. He had a wonderful prestige, an inborn physical vigor. He had the advantages of classic culture, refined gifts of rhetoric, some experience in war, and much more in Congress. He was inaugurated with a grand display. He was a man born of the people. He arose from humble estate. The public services which he rendered in Ohio immediately preceding the Civil War, and afterwards as chief-of-staff to General Rosecrans, and his many years in the lower branch of Congress, found him at last, in 1880, chosen United States Senator. He advanced to this position by steady and deserved promotion. The Republicans know well how to honor their able men. This gave great strength of adhesion to their party. In his inaugural, President Garfield touched with elegant phraseology and rare felicity upon the progress of American civilization. He made his constitutional recommendations with a happy selection of themes. He formed a brilliant Cabinet. James G. Blaine, of Maine, was at its head, with a genius for politics as clever as that of Talleyrand for diplomacy, or Napoleon for war; but this cabinet was doomed to a short existence. Now, for the second time in the history of the country, a great tragedy is enacted. James A. Garfield, the favored son of Ohio and President of the Nation is cut off in the zenith and splendor of his grand career! It is not necessary to discuss the preceding difficulties between the factions of the Republican party; the one headed by Senator Conkling, and the other by Mr. Blaine, and indorsed by the President. It had no relation to the tragedy. The latter comes in an unexpected way. It comes, like our first great tragedy, with an assassin's pistol-shot. The President is about to leave Washington on a visit to his *alma mater*—

Williams College. It is on the morning of the 2d of July. Along with him are Mr. Blaine and other friends. He is about to take the cars for Long Branch, at the Baltimore depot. An obscure, office-seeking miscreant, called Charles Guiteau, who has long been watching for this opportunity to revenge his disappointment, creeps stealthily behind the unsuspicious President! He is within a few feet of the President. With fatal aim he fires his weapon. Its shot strikes the President in the back, inflicting a terrible wound. For the second time in our history a President falls by the hand of an assassin!

The Nation is thunderstruck. There is awe for the tragedy, and sadness for the victim. From time to time hope varies with the alternations of the disease which supervenes from the wound. Medical and surgical help are vain. It is half-past ten, on the evening of September 19, when the President suddenly dies.

For eighty days he had borne mental anguish and bodily pain with fortitude. The writer at that time was within a few miles of Tarsus, where Paul was born. There, by a telegram from the consul at Smyrna, he hears the sad news of the death of his friend, the President. While the writer was traveling from the North Cape, in the Arctic Ocean, to Constantinople, the dark shadow of that crime and that suffering was upon his path. It threw a gloom upon the very dynasties of other nations. But that shadow did not eclipse the lustre of the President's life. Whatever may have been his weaknesses,—and who is free from them?—he lives in the hearts of good men.

What followed the people know. Immediately after the death of President Garfield, Vice-President Arthur takes the oath of office according to the requirements of the Constitution. How skillfully and courteously he managed the grand trusts of the high office to which he succeeded, is now recognized. He was well equipped for Executive duties, as a man of education, of great knowledge of affairs, and as a lawyer, and a practical man of business. He retired from the office of President with the best wishes of every one with whom he came in contact. He had many severe trials connected with the bad administration of affairs in the post-office and other departments of the government. He also had some stormy times with partisans, because he endeavored to be just to the country; but amid all the distractions of his party and the state, he maintained that decorous dignity which becomes the President of a nation whose past has a wondrous lesson, whose present has such a supreme duty, and whose future such a radiant hope.

The most notable event of President Arthur's administration was the passage in Congress of Senator Pendleton's Civil Service Reform bill. It was a Democratic measure, which had much to do in 1884 with the selection by that party, of a Presidential candidate, in harmony with its spirit and of tried fealty to its principles. The assassination of General Garfield gave impulse to the bill. The evils which its provisions were intended to remedy are acknowledged by most men of judgment and experience in public affairs.

CHAPTER XXXIX.

THE INAUGURATION OF DEMOCRACY AND CLEVELAND.

THE PROVINCE OF HISTORY — WHAT THE SOUTH HAS DONE TO RECUPERATE — BLACK AND WHITE — NEW ORLEANS EXPOSITION — THE PLATFORM OF 1884 — GOVERNOR CLEVELAND ITS EXPONENT — A CATO — INAUGURATIONS OF 1801 AND 1885. — THE NEW ORDER, BORN OF THE GREAT CONFLICT — THE FALSEHOOD OF EXTREMES, AND THE PERMANENCY OF MODERATION.

ALTHOUGH it is not so much the province of history to philosophize as to relate, the writer of this narrative has not deemed it inappropriate to comment somewhat freely upon the men and measures of his Three Decades. A civil war of unprecedented magnitude was the most striking event of this troublous period in the history of our country. That war is an epoch in our career as remarkable for the events which immediately preceded it, as for its subsequent influences on our polity and institutions. Any history of this period must necessarily discuss, almost in every chapter, the causes and the results of that terrible conflict. It is the central point of thought, whether for narrative or philosophical discussion. The men in the conflict, the men who forced the conflict, the men who made the peace; and their prejudices, passions, and patriotism must, therefore, form the main topic of discussion when recording the events of the last three decades of Federal legislation. The legislation of that period is entombed in the statute books. Most of it is obsolete and forgotten. What remains in force, as well as what is obsolete, has had its inspiration and source in the motives and acts of these men. Hence it has been the writer's aim to leave to coming generations some record of them, as a key to the history of this period when it shall be written.

Our Civil War has left many indelible impressions on Southern character and life. It changed the mode of life in the South, and modified in many respects the Northern opinion of the people of that section. The men and women of the South, especially those of the Gulf states, have had experiences, mentally and morally, which have wrought many modifications in

their estimates of Northern character. Most of the men who swayed Southern society and politics died in or since the war. They are gone to their rest. Their shadowy forms only appear to the soft light of affectionate remembrance. If the light which led them into secession led astray, it was light from some standard of nobility. They had a sensitive love of honor. They had a proud belief in family and state which made them over-confident. They had a great love of neighborhood which made them indiscriminately confiding. They had a grand hospitality which made it impossible for them to think truly of future events in connection with their own homesteads. But along with these qualities there was a universal self-respect which kept them pure and undegenerate. They were never base. They bore their misfortunes with uncomplaining fortitude.

When the war ended, what struggles for existence ensued! Men, and even women, in their respective spheres, so long as there was military organization, could not be dispirited or beaten. The weight of exhaustless numbers and resources, the skill of invention, and the animation of a kindred gallantry for the Union could alone conquer Secession; but all these did not subdue the spirit of its adherents. The South appeared to be ruined hopelessly and irretrievably in the long contest. Her education had not fitted her for disaster. Ominous whispers ran around that her sons and daughters had been reared to make no effort, that they were destitute of energy, that their women were not housekeepers, and that their men were not provident and economical. What, then, could they accomplish under circumstances that might appall the stoutest heart and mind? This was the Northern estimate of this people; yet what could they not accomplish? What did they not do in rebuilding their shattered fortunes and dismantled places? A few years, and lo! order comes out of chaos; happiness succeeds misery; prosperity, gay, fair, debonair, healthful, and vigorous, arises out of the very ashes of desolation. How was this change wrought? Partly through the organization of the state governments which in desperation they rescued from the spoiler; partly in the counting-house, the shop, and most of all in the field of agriculture; by the loom, the needle, and the cook-stove, and by a determined persistency to succeed, never expected by the outside world. Everywhere energy and industry were displayed in connection with that splendor of gallantry which no honorable and truthful man denies to the Southern character.

Now, as this volume closes, New Orleans makes her exposition of Southern achievements. It is a peaceful victory,—commercial and industrial. It exhibits the wealth and working power of the South. It bursts forth almost as unexpectedly and beautifully as the famous flower of the forests of Ceylon, with a startling report and an opulence of fragrance. Strange to say, within sight of the industrial elements at New Orleans, is a camp where the veterans of the Confederate and Union armies assemble in

blessed concord. It is a congratulatory and hopeful augury. Chancellorsville and Gettysburg meet together: Shiloh and Antietam salute each other. The old soldiers talk over bygones, in peace and brotherhood. The great war which raged twenty years ago has left no scars with the just and honorable warriors. The channels of wrath are filled up with the waters of Lethe. Immigration comes from the North. Old foes shake hands and learn to understand each other, and to recognize their common interests and fraternity. The South no longer speaks with pathos. She no longer sings the *miserere*. She has gone through her poverty. She smiles at defeat. Her cities were destroyed, her fields desolated, and her labor disorganized; her homes were in ruins, her families scattered, and her sons fell in the battle; but in the face of trial and trouble, under the dark shadow of this ineffable sorrow, she rises from the ashes of desolation and reveals more clearly the splendid attributes of her character and the grand importance of the work before her. Every element in the South seems to have been resurrected for her resuscitation. What of the white man? He is enfranchised in many ways. What of the negro? He is recognized as a citizen whose rights are secure; is an integral part of Southern civilization. By a pledge stronger and firmer than any party platform or civil rights law, by a guarantee firmer than any constitutional provision, citizenship and the equality of civil and political rights have been assured to the men of swarthy looks. Whatever may have been thought of the advisability of the last two constitutional amendments at the time and under the peculiar influence of their adoption, they are now fixed in the fundamental law as firmly as any other part of it. They will never be questioned nor disturbed. By the order of events and of nature, the negro is left to his own contest. If he would have position and power he must achieve it by his own energy, judgment, and will. If he relies upon political sympathy for his advancement, he will find that he has been leaning upon a broken reed, and that he must lean upon himself. The honor of the Republic has been pledged to the sustentation of those elements which secure the negro in his citizenship with all its incidents and rights.

Is it asked what will be the condition of parties in the South at the end of the next decade? The last election perhaps indicates, to some extent. The significant utterances of President Cleveland demonstrate that the party which is now dominant is not the sectional party. That party is national which polls the grand majorities South and an immense vote North. Its voters in the North, South, and West, in spite of all objurgation to the contrary, are too strong in intelligence and numbers for any future disquietude as to sectionalism. Ten millions of people have voted to discontinue the long retained power of government in the hands of one party. There were reasons for this change. Reasons which fail to justify heavy taxation, or to vindicate accumulations in the treasury. Reasons which are larger than fiscal policies. They belong to the policy of principle. They are historic

and philosophic,—historic because philosophic. We had reached a stage in which certain leaders of the Republican party would have embraced any pretext for transforming our government into something more absolute than it is.

It is a marvel that the Constitution has been preserved to us through the ordeal of civil war. It is, at the same time, almost a miracle that the pendulum is again swinging toward decentralization. Alexander Hamilton thought that the British Government was the best in the world, and doubted much whether anything short of it would do for America. He declaimed against the vices of democracy, and insisted that the British Government was the only one in the world which united public strength with individual security. He insisted on our government being modeled after the British Government as nearly as practicable, and proposed to abolish the states, or subordinate them in the municipal corporation and consolidate all power in the Federal Government. But were he alive to-day, would he not abandon his worship of the old Federal fetich? Would he not say that the philosophy of the Democratic party should be judged by the experience of a hundred years, and the tenets by which its perpetuity has been made so honorable and prosperous? Each of the great parties to-day professes, and can profess, no other than popular democratic principles. Were not Milton, Locke, and Algernon Sidney the prototypes of Jefferson? Is there any party to-day which would openly advocate aristocratic and autocratic rule? It would have a summary fate and short shrift. This has been the final outcome and end of the various parties which, since 1791, have opposed the Democracy.

Whatever their name, there will ever be two schools of political philosophy, and two parties in this country accepting their doctrines; one with Federal tendencies for a strong centralized government, distrustful of the people, and the other seeking local governments and strictly defining the sphere of national powers to national necessities. Hence, in concluding these chapters of our history of three decades, is it not well to remember that, however plausible the platform adopted at Chicago by the convention which nominated Mr. Blaine may be, and however suave his letter of acceptance,—the federative system of Hamilton is the framework of that platform. It was repudiated by the people when they sustained a platform which contains something beyond platitudes. The Democratic platform was inherited from the days of Jefferson. What does it mean? Free commerce with all nations, political connections with none. Hostility to monopoly by legislation as violative of the equal rights of the people. No fostering of one branch of industry to the detriment of another. The practice of the most rigid economy in the conduct of public affairs. No more revenue than is required to defray the necessary expenses of government. These doctrines are a part of the Democratic platform of every state convention. The Democratic platform adopted at Chicago on the 10th of July, 1884, was not made for the purpose of assisting the election of any one man President,

even though he might be as honest as Grover Cleveland. That platform was a declaration of principles adopted by representative men, who saw that the Nation was growing older, and that new issues were born. They had gone through many trials during the war, and they desired the preservation of personal rights, and of the reserved rights of the states, while acknowledging the supremacy of the Federal Government within the limits of the Constitution. These are the true bases of our liberties which the Democracy could not surrender. When the condition of the country demanded a change the Democracy made an indictment of the party which had been in power for a quarter of a century. The indictment charged that the Republican party during its legal, its stolen, and its bought tenures of power had steadily decayed in moral character and political capacity. Its promises as to the navy and shipping were failures. It was at war with its own professions as to the public lands and small holdings. The indictment proceeds to say, that that party has given away to railroads, and non-resident aliens, individual and corporate, a larger area than that of all our farms between the two seas. Has not the verdict sustained the indictment?

The Republican party still professes a preference for free institutions: yet it organized and tried to legalize a control of state elections by Federal troops. It professes a desire to elevate labor: yet it subjected American workingmen to the competition of convict labor and imported contract laborers. It professes gratitude to all who were disabled or died in the war, leaving widows and orphans: yet it left to a Democratic House of Representatives the first effort to equalize both bounties and pensions. It proffers a pledge to correct the irregularities of our tariff: yet it created and continued them. Its own Tariff Commission confessed the need of more than twenty per cent. reduction: yet its Representatives in Congress gave a reduction of less than four per cent. It declares for the protection of American manufactures: yet it subjected them to an increasing flood of home manufactured goods, and a hopeless competition with manufacturing nations, not one of which taxes raw materials. It professes to protect all American industries: yet it impoverished many to subsidize a few. It professes the protection of American labor: yet it depleted the returns of agriculture — an industry followed by half our people. It professes the equality of all men before the law: and while attempting to fix the status of colored citizens, the acts of its Congresses were overset by the decisions of Republican courts. It "accepts anew the duty of leading in the work of progress and reform": yet its detected criminals are permitted to escape through contrived delays or actual connivance of the prosecution. Honeycombed with corruption, outbreaking exposures have long since ceased to shock its moral sense. Its honest members, its independent journals, no longer maintain a successful contest for authority in its counsels or support its bad nominations. That change of party rule was necessary, is proved by an existing surplus of more than one hundred

million dollars in excess of the needs of the government. Unnecessary taxation is unjust taxation. The Republican party failed to relieve the people from crushing war taxes, which, were it not for our immense resources, would have paralyzed business, crippled industry, and deprived labor of employment and its just reward. The Democracy pledges itself to purity of administration, to economy, to respect for law, and to the reduction of taxation to the lowest limit consistent with a due regard to the preservation of the faith of the Nation to its creditors and pensioners. Knowing full well, however, that legislation affecting the occupations of the people should be cautious and conservative in method, not in advance of public opinion, but responsive to its demands, that party has pledged itself to revise the tariff laws in a spirit of fairness to all interests.

In its latest platform the Democracy stands pledged to restore the economies belonging to a fair and free government. They favor a continental policy which would have accorded with the best sentiment of the days of William L. Marcy. They are pledged in favor of honest money,—for the gold and silver coinage of the Constitution, and a paper circulating medium convertible into such money without loss. Remembering the struggle to which reference has been made in a preceding chapter, and in which Mr. Hewitt, of New-York, led the debate in the Forty-fifth and Forty-sixth Congresses, it may be proudly claimed that the Democracy compelled a reluctant Republican administration to assent to legislation which made everywhere illegal the presence of Federal troops at the polls. This is one of the conclusive proofs that a Democratic administration can preserve liberty with order by constitutional methods.

On social and sumptuary matters the Democracy met the advances of liberty more than half way. In favoring an honest non-partisan civil service, they will fulfill their pledges and their promises. In sympathizing with labor in its just demands, they are as sincere in their professions as they have been in their practices. In opposing the confirmation of unearned grants of the public lands and demanding their forfeiture in the Congress which has just expired, they have been true to the policy of reserving the public domain for the use of the people.

While insisting that we shall have no entangling foreign policy, they ask for a return to the old democratic policy of reciprocity, which will give us a larger market for the varied products of our industry,—a market which under a quarter of a century of Republican rule became so limited that scarcely a merchant flag remained upon the sea as evidence of our former maritime prowess and adventure.

It was on this platform of Democratic principles that Gov. Grover Cleveland, of New-York, and Thomas A. Hendricks, of Indiana, were nominated for President and Vice-President.

It would be invidious to make comparisons between the two leading can-

didates before the people of this country in 1884. In fact, they present points of contrast, rather than of comparison. The Republican candidate was no new man in Federal politics, as was Governor Cleveland.

When one would compare James G. Blaine, that splendid glancing figure in our politics, with the sedate, quiet, and unostentatious governor of New-York, it is like comparing the electric flashings of the aurora borealis to the stately movements of the rising sun,— that source of growth and life. Grover Cleveland was born in Essex County, New Jersey, in 1837. His father was a Presbyterian clergyman. His family was ennobled through many generations by honest men and women. Its most conspicuous member steadily advanced to high position. After serving as mayor of Buffalo, Grover Cleveland became governor of the State of New-York. Since then his star has been in the ascendant. Since his first vote was cast he has been a Democrat of the best type. His election to the gubernatorial chair by an astounding majority of two hundred thousand votes indicates the fickleness of the popular breath. It was so tempestuous in his favor, that he cannot fail to discern the power of that independent element to which he is indebted for his first, as well as his more recent triumphs. That he respects this element, is significant of his prudence and his gratitude.

Grover Cleveland is in his forty-eighth year. He has a powerful frame. His manners are agreeable. He is liberal in his thoughts. He is a man of democratic simplicity. He dislikes ostentation. The key-note to his character is found in the moderation and frugality of his life. His firmness and courage, and his deliberate judicious action mark him as a man of manliest mould, and high capacity for leadership and administration. He is a Jeffersonian Democrat, honest, capable, and faithful to the Constitution.

In the election of 1884 the people expressed their national consciousness. In other words, there was a revolution which dethroned a corrupt and effete party. In closing the last decade of this history, we see the Democratic party restored to power,— and at the head of our Nation, Grover Cleveland. If Silas Wright deserved to be called by Thomas Benton the Cato of America, may we not in tracing the life of the successor of Silas Wright, from his birthplace, through childhood and as student, following him through his professional career until his election as magistrate of a city and then as governor of a great state, find many of the attributes of Wright, and also something of the famous Roman? In many ways the similitude is striking; and most in that he is truthful, honest, unselfish, kind hearted, and devoted to the principles of Democracy and the welfare of the country.

Rome never needed a Cato more than America needed a man of similar qualities, to free her from the gyves of corrupt politics. This Nation has such a man for President. While others may falter in duty, he will stand firm and true to the principles of the platform on which he was elected, and observe and carry out his pledges of reform in letter and spirit. His need

was so exigent that we may well stand appalled at the danger we have escaped, and which threatened our free institutions. It needed a statesman as courageous as Cæsar and as honest as Cato to save our liberties from a decadence worse than death!

It is upon the same day of the week, and the same month, eighty-four years after the inauguration of the first Democratic President, Thomas Jefferson, at the new city of Washington, that Grover Cleveland and Thomas A. Hendricks are installed in their high offices. A contrast of the city of 1801 with the city of to-day will show something of the progress of our country in all that makes up grandeur, extent, influence, prestige, and power. Perhaps a more striking contrast would be that of the two inaugurations. The first was as unostentatious as the village in which it occurred. The second well became the capital of a mighty nation. There seemed to be no end to the grand and imposing cavalcade which ushered in this new epoch. No such display of men in line, or of enthusiasm at heart, has ever been witnessed in any country. The cycle of our felicities closes with this grand restoration of Democratic government! After three decades of wandering in the wilderness, the people at last have their representative men installed in their great trusts.

The writer, in closing this volume at the commencement of a new *régime*, cannot but recall the attempts of those who opposed the Democratic party in its efforts for peace and harmony during the terrible struggles of the past three decades. At length peace has come! Slavery, the *bête noir* of our politics, is no more. The constitutional amendments are acquiesced in. A majority of the Southern members of Congress, on a resolution offered by the writer, have affirmed their devotion to the Union, and asserted that secession is forever gone to the rearward and abysm.

The country is greatly changed. It is changed politically, socially, materially, nationally. *Novus seculorum nascitur ordo.* Our next census will show sixty millions of people. By the end of the century it will show a hundred millions. The questions of municipal independence, state rights, and local self-government may come again; but never again with so much terrible consequence as in 1860–'61.

In the judgment of the writer, it is only by guarding against the centralization of government that the great diversity of interests in a Union of such extent as ours can be harmonized, and individual rights be secured. The doctrines of local independence and self-government have ever been the inspiration of the writer. Without these doctrines our Union would be forever endangered. By adhering to them it will fulfill the hopes and answer the prayers of all true patriots. They furnish the key to unlock the magic chambers of our future. They are the safe and golden mean between the extremes of faction.

CHAPTER XL.

MATERIAL PROGRESS IN THREE DECADES.

RESULTS OF CENSUSES — OBJECT OF CENSUS FROM 1790 — THE LEGISLATION FOR THE TENTH CENSUS, OF 1880 — ITS COMPLETENESS — STAR OF EMPIRE AND CENTRE OF POPULATION IN 1880 — SOCIAL STATISTICS — CENTENNIAL YEAR — OUR INCREASE FROM DECADE TO DECADE — DETAILS OF ADVANCEMENT — FEDERAL TRADE AND TARIFF RESTRICTIONS — HINDRANCES TO PHYSICAL GROWTH — ODDITIES OF THE CENSUS — THE PUBLIC LANDS — PRIMARY OBJECT OF THE CENSUS — THE APPORTIONMENT OF REPRESENTATION — RESULT OF THE LAST APPORTIONMENT — INCREASE OF THE SOUTH IN POLITICAL POWER — POPULATION, AND NOT VOTES, THE BASIS — OUR UNIQUE SYSTEM — THE MUNIMENTS OF PUBLIC LIBERTY FOUNDED ON THE CENSUS OF POPULATION — OUR LIGHT OF LIBERTY.

IN the concluding chapters of this volume, which has reference to only thirty years of our American history, there would be an incompleteness of etching if, amid the vicissitudes of war and peace, the advancement of the country were not more or less touched upon. No country ever had better established data for the ascertainment of its progress than the United States. It is no new remark that this country stands alone among nations in its exhaustive state and federal system of registry or census, beginning with the commencement of the government and extending down to the present time. It has already taken ten national censuses. All of these have had reference to the enumeration of the inhabitants required by the Federal Constitution to be made once every decade. The primary object of the constitutional provision is to fix the apportionment of representatives, and of direct taxes among the states. The matter of direct taxes has become, for reasons not necessary to detail, obsolete. The apportionment of representatives has passed through many and curious processes of legislation. In the course of a decade, it would become almost impossible to insure the indispensable prerequisite of fair representation for a rapidly increasing population like that of the several states, in a Federal polity like ours, without a veracious return of their inhabitants. The first census, of 1790, merely undertook to require a return of the inhabitants. The second census, of 1800, was like the first. The third was identical with the second. But a grand stride was taken in 1810, on the first day of May, under the direction of the Secretary of the Treasury, Albert Gallatin. He went outside of the strict construction of the Constitution and undertook to have an ac-

count of the manufacturing establishments and manufactures returned by the census takers of the several districts. He was limited to an expenditure of $30,000. How meagre that outlay in comparison with that of 1880, which amounted to millions! In the fourth census law, of 1820, the same provisions were re-enacted. In 1830, there was little change for the better in the mode of taking the census. But in 1840, under the act of March 3, 1839, for the sixth census, the census lists included revolutionary pensioners, manufacturing, agricultural, and educational statistics. A grand progress was being made in our country at that time. The following decade showed remarkable vitality in the Republic. The star of empire was moving rapidly to the westward. Wealth was following its course. Bankruptcies and crises also followed; but the railroad, the steamship, and the telegraph began to foreshadow an approaching revolution in all that would make material progress and physical grandeur. Immigration began to set in, especially from Ireland, whence the famine drove out fabulous numbers of people. These interesting features of our advancement led to a better law. It was enacted on May 3, 1850. Under it the censuses of 1850, 1860, and 1870 were taken. And yet, owing to our swift progress, that law turned out to be very inadequate and imperfect, as applied to the condition of things in 1870 and 1880. It then seemed to be so clumsy, antiquated, and barbarous, as applied to the new conditions of life in America, that, in the language of Superintendent Walker, it was as the smooth-bore, muzzle-loading queen's-arm of the Revolution, to the repeating rifle of the present time. The law needed radical change, if not repeal. It was the privilege of the author to take a part in forwarding the amendments of General Garfield's bill for the census of 1870. One of the features of that bill was to delegate the power of taking the census to supervisors and special enumerators, and to take the business away from the United States marshals, who, for very many reasons not necessary to be named, were incompetent and untrustworthy. This bill failed, not in the House but in the Senate.

The author introduced a bill for the tenth census of 1880, which substantially became a law on the 3d of March, 1879. It fixed the cost of the work at three millions, but, as it turned out, a larger sum became necessary, owing to the multitude of statistics collected outside of the mere registry of population. Under that law it was requisite, on or before the 1st of March, 1880, to designate the number of supervisors of census to be appointed in each state and territory. Various other provisions were made, by which the enumerators who acted under the supervisors were required to visit each dwelling-house and family, and obtain certain information in addition to statistics of population. But there was an additional provision in that law which authorized the employment of a number of experts on certain subjects connected with our physical progress. Their reports have not yet been fully printed. And although many misadventures have occurred in relation to the completion of the census according to the design of its authors, yet, by

the general consent of all statisticians, there never has been made for mankind, in any nation, such a stupendous collection of facts upon which to base political representation and discuss questions of social science. Nearly every review in Germany, Great Britain, France, and other countries where intelligence has ruled upon this subject, has commended this remarkable census.

The census of 1870 was, in some states, an unreliable and slovenly performance. The conditions just after the war, in the South, were too chaotic for accuracy and completeness, even in the simple matter of population. No fault, however, was found with the census work of 1880, that was not promptly corrected, even by a second taking of the population. The work of enumeration, which began on the first Monday of June, was completed, so far as it related to population, within the month, viz.: by the 1st of July following. In cities of over ten thousand inhabitants it was completed within two weeks. The census was thus taken, as to population, in a shorter time than ever before.

The writer may be partial to the census work, but he cannot omit, in a book on Federal legislation, some mention of that which gives us the most perspicuous and methodical account of the improvement of our country in the three decades comprehended by this history. The *Compendium of the Tenth Census*, if not the more elaborate volumes themselves, is within the reach of the people. The schedules are intelligible. The special and novel inquiries, and their responses, as to railway, telegraph, and express and insurance companies, and especially matters connected with manufactures and agriculture in every form and variety of human product, have had their full return in this census. Accurate and reliable statistics have been secured for the first time in these various modes of business, and in bulk the material collected and published has been double that obtained by any former census. In relation to taxation and the public debt, no such return has ever been made to the authorities of any other nation. The tabular statement as to population shows that from 1790, when we reached nearly four millions of people, to 1880, when our population became 50,155,783, there has been no such national progress made in any other country, within the like period. To go back only to 1860, so as to bring it specially within the field of the observations in this volume, it will be seen that the population in that year was rising of thirty millions, or 31,443,321. So that, since we started in our career in 1790, we increased our population nearly thirteen times; and since 1860, we have nearly doubled our population!

A fanciful way of exhibiting our progress, is that adopted in our last census volumes by graphic maps and diagrams. But nothing shows more strikingly the march of this Nation across the continent than the large census map of 1880 which illustrates the movement of the "centre of population." By the centre of population is meant "the point at which equilibrium would be reached were the country taken as a plane surface, itself without weight,

but capable of sustaining weight, and loaded with its inhabitants, in number and position as they are found at the period under consideration, each individual being assumed to be of the same gravity as every other, and consequently to exert pressure on the pivotal point directly proportionate to his distance therefrom. It is the centre of gravity of the population of the country."

According to the calculations of the census office, this centre in 1880 was in latitude 39° 04′ 08″, and longitude, 84° 39′ 40″. The position of the Old Observatory, at Mount Adams, Cincinnati, is: latitude, 39° 06′ 26.5″; longitude, 84° 29′ 45″.

The centre of gravity for 1880 was, therefore, 2.6 miles south of this observatory and 8.9 miles west of it. That is, it is 9.3 miles west by south from the observatory, or eight miles west by south from the heart of the city of Cincinnati. This places it in Kentucky, one mile from the south bank of the Ohio River, and a mile and a half southeast of the village of Taylorsville. Since the census statement was made this centre has changed, and, doubtless, five millions of population have been added to the national pivot pressure, as a climax of the author's three decades.

Table XV. in Volume I. of the Census Reports for 1880, with an accompanying map, shows the westward movement of the centre of our population from the first census of 1790, until the last census of 1880, as follows:

TABLE XV. POSITION OF THE CENTRE OF POPULATION.

Date.	North Latitude.	West Longitude.	APPROXIMATE LOCATION BY IMPORTANT TOWNS.	Westward Movements By Decades.
	° ′	° ′		Miles.
1790	39 16.5	76 11.2	23 miles east of Baltimore, Maryland, .	
1800	39 16.1	76 56.5	18 miles west of Baltimore, Maryland, .	41
1810	39 11.5	77 37.2	40 miles northwest by west of Washington, District of Columbia, ...	36
1820	39 5.7	78 33.0	16 miles north of Woodstock, Virginia, .	50
1830	38 57.9	79 16.9	19 miles west-southwest of Moorfield, West Virginia, ...	39
1840	39 2.0	80 18.0	16 miles south of Clarksburg, West Virginia, ...	55
1850	38 59.0	81 19.0	23 miles southeast of Parkersburg, West Virginia, ...	55
1860	39 0.4	82 48.8	20 miles south of Chillicothe, Ohio, . .	81
1870	39 12.0	83 35.7	48 miles east by north of Cincinnati, Ohio.	42
1880	39 4.1	84 39.7	8 miles west by south of Cincinnati, Ohio.	58
			Total, ...	457

The author confesses his inability to apply the figures of this table to the elucidation of any social or political problem. They may be a treasure for future metaphysical investigation, in weighing or computing the influences of the individual mental forces of our population, converging to and radiating from the common centre of the mental forces of the whole people!

There are two values to be appreciated in the matter of census-taking. The first is that which has reference to social statistics, and the second that which has reference to the apportionment of representatives among the people. The one is broadly scientific and the other is exclusively political.

As to the first, it may be remarked that the vast extension of our system of railway and telegraph, the dash of our people across prairies and mountain ranges, overcoming all seeming impediments, and regardless of all reservations, the discovery of rich deposits of iron, coal, silver, gold, copper, and other materials, the enlarging of the industries occasioned by these discoveries, and the multiplication and development of wealth make the census of 1880, which illustrates this progress, a marvel of completeness and a reservoir of information. For the purpose of studying political and social economy, or sociology in any form, all the generalizations which philosophy would draw by induction and comparison of facts have been made possible by the returns of this tenth census. Nor should it be forgotten, that amid the changes of parties and the devastation of war, referred to at length in former chapters, we have grown up a new country and almost a new class of inhabitants. We have been careless of registering births and deaths. We have no elaborate tables of diseases and longevities, and some phases of social disorder have been neglected, but the time is coming at the end of our eleven decades, when full and exact information respecting them will be demanded by the people with clamorous urgency, — not merely that we may be prepared for the consideration of social problems, but that we may be advised of the magnitude of the population, and also of the intelligence of the country which is the foundation of our representative system. Without an exact knowledge of our country and its resources, who can educate, and who can legislate? Never was there a greater demand than at present for men trained in statistical facts and history. Their study leads to general justice as well as to the advancement of truth. They are codes of jurisprudence and litanies of learning.

The close of the second decade of this book brought us into the centennial year. Our immense war debt had been largely reduced. The burdens of taxation were gradually being lightened. Our financial system, with its rank issues of paper money, was being reformed. These were signs of progress. They presented the American people to the world,— not in the light of decadence, either in their commerce or domestic progress, but, in spite of all restrictive laws, in spite of warlike combinations, in spite of the great

distraction among our states, in spite of our unexampled bloody conflict, as having been lifted up by our progressive elements upon a higher plane of national existence. From 1790 to 1880 our rate of decennial increase of population was almost uniform. It has scarcely ever been less than thirty per centum, except between 1860 and 1870, when it was only twenty-two and one-half per centum. If the former ratios are maintained during the next two decades,—and they have been as high as thirty-six per centum from 1840 to 1850,—who can measure the magnitude of interests involved at the end of the present century, with a hundred millions of people, and with a restless population steadily moving westward and southward, filling up vast arable spaces of the continent, and developing its great resources. It must also be remembered that hardly one-fourth of our vast territory of three millions of square miles is under cultivation. It cannot be forgotten that by the acquisition of Louisiana, under Democratic auspices, our empire overleaped the Mississippi; and that by the annexation of Texas in 1845, the Texas cession of 1850, and our Mexican acquisition, all under the same auspices, there was added a domain nearly equal to the states north of the line of the Ohio, and east of the Mississippi. In other words, the United States of 1800 was a country only about one-third as large in domain as it is to-day. How is this empire inhabited? By whom? What are their occupations, productions, and resources? These questions are answered in the Census Reports.

It is impossible to give here even a summary of the contents of the several large volumes which include the returns of the census of 1880, thus far published. From the industrial statistics, however, a few important figures may be selected. In 1850, the number of manufacturing establishments in the United States was said to be 123,029; in 1860, there were 140,433; and in 1870, 252,148; in 1880, there appears to have been no more than 253,840. The trifling increase in the number of establishments during the decade after 1870 is no indication of retarded progress. But it indicates the tendency of the larger establishments to swallow up the smaller ones. This suggests a serious question. In 1850, the capital invested in manufactures was returned as $533,245,351; in 1860, as $1,009,855,715; in 1870, as $2,118,208,769; and in 1880, as $2,790,223,506. The number of persons employed in manufacturing establishments was returned for the respective years as follows: for 1850, 958,079; for 1860, 1,311,246; for 1870, 2,053,996; for 1880, 2,738,950. In 1880, the total population so employed was composed of the following persons: 181,918 children; 531,753 females over fifteen years; and 2,025,279 males over sixteen years. In 1850, the wages paid in such establishments amounted to $236,755,464; in 1860, $378,878,966; in 1870, $755,584,343; and in 1880, $947,919,674. That is, in 1880, the weekly wages paid for each working man, woman, and child was about $6.65, or $1.11 a

day. The average earnings of the males over sixteen years of age was probably about $1.18 a day, for a full year. The materials consumed were valued in 1850 at $555,174,320; in 1860, at $1,031,605,092; in 1870, at $2,488,427,242; and in 1880, at $3,394,340,029. The products in 1850 were valued at $1,019,109,616; in 1860, at $1,885,861,676; in 1870, at $4,232,325,442; and in 1880, at $5,369,667,706. By deducting the value of the materials used, and the wages paid, from the value of the products, the reader will find that for the year 1880 there was a return of $1,027,408,003 to the capital sum of $2,790,223,506 invested that year in our manufacturing business, which is equal to nearly thirty-seven per centum of the capital. These figures also suggest a serious question, — one which the author has most earnestly discussed over and over again in Congress, at almost every session, during the past three decades. It is involved in the tariff question; and it is the key to the solution of that question.

It cannot be ignored that the changes in the law or its interpretation, are more or less influential in changing economic situations. The prosperity of the country may depend on a tariff schedule. A law of Congress may affect transportation to sea-board and inland. The sale of our farm products abroad depends on railroad freights and international reciprocity. Depressions in business are relieved and products are brought to market, under conditions that are *quasi* if not wholly political. Increased cost of transportation adds, of course, to the cost of bread and meat. The consumer pays the cost. A mite of difference in cost of transportation may make or unmake a market. But the grand burden upon productive labor is not revealed in the pages of the Census Reports. It consists in our unwise restrictive legislation upon commerce in ships and interchanges between nations. When we forbid free buying we stop free selling. Our policy is not yet liberalized. The recent decades would show more thrift and increase in the wealth of our nation, if there had been more repealing of customs duties and fewer statutory restraints imposed upon the natural energies of the people.

In this quickening of the national pulse, — this grand transformation of wildernesses into domains of enterprise and activity, one cannot forget how much government, and especially political parties, have to do in the formation and development of the condition of a country, and its occupations and their changes. A law of Congress may divert industry from one occupation to another, and thus enhance or decrease the value of such occupation as an instrument of economy and progress, or ruin. In this connection, abundant illustration may be found in our tariff and revenue laws. The census of 1880 reveals the fact, that in proportion to the same number of milliners and dressmakers the previous census year, this class has become more numerous in the ratio of 2.21 to 1; button-makers, 2.00 to 1; shirtmakers, 2.9 to 1; sewing-machine operators, 1.78 to 1; launderers and laundresses, 1.37 to 1;

silk-mill operators, 4.1 to 1; cotton and woolen mill operatives, each as 1.10 to 1; jewelers, as 1.10 to 1; and dentists, as 1.13 to 1. A thousand other illustrations are deducible, so that we may infer from a few *indicia*, — as Macaulay did respecting certain matters connected with social life in the time of the Stuarts, — what the business of the country is in all its ramifications. Our farmers have increased relatively in the ratio of only 1.02 to 1, although small farms have not been merged into the greater. Labor has been economized, and proprietors have remained and subsisted upon their farms, with such labor as might be saved. In farming, manufacturing, and mining, production exceeds the home demands; therefore, to maintain free labor, there must soon be free commerce in free ships.

The farm is the foundation of our varied industries. The national domain is the grand source of our prosperity. Including Alaska and its islands, that domain is estimated at 3,586,006 square miles, or 2,295,043,340 acres. Of this area, 1,589,900,800 acres were acquired by the purchases mentioned in a previous chapter, at a cost of $88,157,389.98. The Alaska addition of 369,529,600 acres, at a cost of $7,200,000, was made under a Republican administration. For all the other additions, the Democratic party is entitled to the credit. The title to the lands thus acquired was vested in the general government, as a public trust for the benefit of the people. Besides these lands, the general government acquired title to 259,171,787 acres of domain, with the like trust, by cessions from the states of Virginia, North and South Carolina, Georgia, New-York, Connecticut, and Massachusetts, making a grand total of 1,849,072,587 acres of public land acquisitions. It is estimated that on June 30, 1880, there remained 1,270,708,038 acres of these lands, subject to disposition by the general government, of which 204,802,711 acres were surveyed. Alaska is included in this estimate. Deducting unearned grants to railroads, estimated at 110,000,000 acres; private land claims, patented and unpatented, estimated at 80,000,000 acres; and military and Indian reservations, estimated at 157,356,952 acres, the total public domain undisposed of on that date was about 1,160,708,038 acres; or, in the language of the official report on our public domain, an area "equal to 7,254,425 homesteads of 160 acres each." From these figures it would appear that up to June 30, 1880, about 578,364,549 acres of public land had been disposed of by the government of the United States. The official estimate is 547,754,483 acres. Up to that date the net receipts to the treasury, from sales for cash and from fees and commissions on account of the disposition of the lands, amounted to $208,059,657.14, of which $7,356,808.03 was paid to certain states, on account of certain percentages allowed by law on receipts for the lands sold within their borders.

Our public land account on July 1, 1880, is officially stated as follows:

For purchases and cessions,	$88,157,389 98
For surveying and disposition,	46,563,302 07
For purchases of the Indian occupancy title,	187,328,903 91
Total cost,	$322,049,595 96
Net cash receipts,	200,702,849 11
Cost of public lands in excess of receipts,	$121,346,746 85

The cost up to that date, including purchase, acquisition of Indian title, expenses of survey, and of disposition of lands, was about 17⅞ cents per acre. The public benefit is incalculable.

The reader would like to know how this public land trust has been guarded, and for what purposes the public domain of the people has been disposed of. The following figures—which are the most important items—will give an idea on this subject. They cover a period commencing with the origin of our government, and ending on June 30, 1880:

	Acres.
Pre-emptions of 160 acres each, and cash sales,	169,832,564
Military and naval service land bounties,	61,028,430
Homesteads of 160 acres, more or less,	55,667,044
Farms under graduation act,	25,696,419
Grants for support of schools and colleges,	78,659,439
Grants to states for internal improvements,	7,806,554
Grants to states of swamp and overflowed lands,	69,206,522
Grants to railroad corporations, patented,	45,650,026
Grants for canals and military wagon-roads,	5,725,113
Entered under timber-culture act,	9,346,660

If the reader will refer to Table XLIII., in the *Compendium of the Tenth Census*, he can compute, by excluding the area of the old thirteen states and of Tennessee and Texas, how much of the above acreage has gone into farms. In 1880 the total acreage of our farms was 536,081,835 acres. A hasty glance down the table will show that more than half of this acreage is in states and territories carved out of ceded and acquired lands. In other words, under the Democratic policy of acquiring new territory for the people, our great farming interests have been extended from the Alleghany Mountains to the Pacific Ocean; and notwithstanding the extravagant Republican administration of our national land trust, there still remains an area sufficient for between six and seven million homesteads,—homes and support for thirty-five millions of people more than are now provided for. In 1850 our farm acreage was 293,560,614 acres; in 1860 it was 407,212,538; in 1870 it was 407,735,041; and in 1880 it was 536,081,835. In 1850 our farm acreage of unimproved land, included in the above, was 180,528,000; in 1860 it was 244,101,818; in 1870 it was 218,813,942, and in 1880 it was

251,310,793. Is not this making glad the waste places of our prosperous land? How much greater would have been our agricultural development, if peace had reigned from 1860 to 1870? The retardment is marked by the figures above given. The greater portion of our agricultural development is due to the pre-emption and military bounty system, both Democratic measures. The first pre-emption law was passed on March 3, 1801. Up to 1841, sixteen acts were passed for the improvement of this system of securing the soil to the actual tiller. Any head of family, widow, or single man over twenty-one years of age, who is a citizen of the United States, or has declared an intention to become a citizen, may secure 160 acres of public land under this system, at a nominal price, wherever it is open for settlement.

The homestead system was formulated as a political issue by the Free Soil Democracy in 1852. In a national convention held that year at Pittsburg, they declared that the public land should be granted free of cost, in limited quantities to the people; and that it should not be sold to individuals or granted to corporations. During the next ten years, various efforts were made to pass a homestead law. Andrew Johnson, of Tennessee, was one of the original promoters of the system that was finally adopted. In its crude state it encountered much opposition, being hampered with proposed grants of enormous areas of public land to the new states. President Buchanan, in vetoing one bill, reminded Congress that the old states, which had ceded a large domain, and which had aided the government to acquire so much of its public land, had an interest in these lands that should not be overlooked. That bill was also objectionable in that it disfavored foreigners who came to make a home in our country. Mr. Buchanan mentioned several other objectionable features, and the bill failed.

Finally, in 1862, another homestead bill passed the House of Representatives by a vote of 107 to 16, and the Senate by a vote of 33 to 7. On May 20, 1862, President Lincoln affixed his signature to this bill, and it became a law. Since that time, over fifty-five million acres of the public domain have been entered under the homestead law, which gives free to the actual settler 160 acres.

The Democratic and Republican parties are entitled to divide honors on the establishment of the railroad land grant system, but not in respect to the administration of that system. The grant to the Illinois Central Railroad, in 1850, was the first large one. It gave alternate sections of 640 acres, within six-mile limits on each side of the track. After July, 1862, the grants to the Pacific and other railroads grew, and grew, until from six miles on each side, the limits were extended to ten, twenty, forty, and even fifty miles on each side of the railroad! For this excess of liberality the grantees owe no gratitude to the Democratic party. The latter party has long since called a halt in such an extravagant and riotous breach of trust in regard to

the "heritage of the people." Undoubtedly the country has been greatly benefited by the extension of railroads, which this extravagant government aid made possible. The land grant railroads have connected the landless with the lands, and given an outlet to the products of millions of acres, which would otherwise not have been reclaimed. Had the grants been confined to necessary aids, the same benefits would have accrued to the people, and much corruption and national scandal been avoided. Some efforts have been made in Congress to reclaim unearned railroad grants; and it is due to the people that these efforts should be continued until a successful settlement is effected. This may be done without injustice to grantees, and without retarding that national progress, of which the figures of the tenth census and this sketch of our public domain will give an outline to the reader.

The primary object of the census is the apportionment of power. It was for this purpose that the framers of the Federal Constitution incorporated in it a peremptory requirement that a decennial census should be taken. When the census returns of 1880 showed the population of the country to be 50,155,783, Congress addressed itself to the task of rearranging the apportionment of Representatives. The work was begun in the Forty-sixth Congress. It was completed in the first session of the Forty-seventh Congress. The plan proposed in the Forty-sixth Congress by the author was finally adopted, although the number of Representatives which he suggested, 307, was changed finally to 325. The author's plan was not altogether new. Although it involved a conflict with the census office, it works harmoniously. He proposed that after Congress should have fixed upon the number of members of the Lower House, the whole population, omitting that of the territories and the District of Columbia, should be a dividend for that number, and the quotient should be the basis of representation for each member. But, on the division of the population of the states so as to ascertain the number of members for each state, there would be a remainder. Was this to be unrepresented? The loss in the number of members corresponding to the fractions in the several states was to be compensated for, as nearly as might be, by assigning to the states having the largest fractions an additional member each, so as to make up the whole number of Representatives. According to this plan, the law making an apportionment of Representatives in Congress among the several states under the tenth census, approved Feb. 25, 1882, provided that after the 3d of March, 1883, the House of Representatives should be composed of 325 members, to be apportioned as follows:

Alabama,	8	Connecticut,	4
Arkansas,	5	Delaware,	1
California,	6	Florida,	2
Colorado,	1	Georgia,	10

Illinois,	20	New Hampshire,	2
Indiana,	13	New Jersey,	7
Iowa,	11	New-York,	34
Kansas,	7	North Carolina,	9
Kentucky,	11	Ohio,	21
Louisiana,	6	Oregon,	1
Maine,	4	Pennsylvania,	28
Maryland,	6	Rhode Island,	2
Massachusetts,	12	South Carolina,	7
Michigan,	11	Tennessee,	10
Minnesota,	5	Texas,	11
Mississippi,	7	Vermont,	2
Missouri,	14	Virginia,	10
Nebraska,	3	West Virginia,	4
Nevada,	1	Wisconsin,	9

The law further provided that whenever a new state is admitted to the Union, the Representative or Representatives assigned to it shall be in addition to the number 325; and that in each state the number of Representatives to which such state may be entitled in the Forty-eighth and each subsequent Congress, shall be elected from districts composed of contiguous territory, and containing, as nearly as practicable, an equal number of inhabitants.

It will thus be seen that the dominant political element which is supposed to reside in the Democratic party, and the dominant portion of that party which is supposed to reside in the Southern States, have become dominant under a fair census of the population, by the constitutional addition of electors for President and Vice-President, and Representatives in Congress, whereby this ascendency has been greatly secured. When, therefore, such statesmen as Mr. Blaine attribute too much power to the South in proportion to the votes cast, and refer to that section as a possibly controlling element in our politics; when such an accomplished writer inveighs against such domination, after the methods revealed in the early chapters of this book, it is well to understand the very basis of our representative government. It is just to emphasize the fact that the right to representation in Congress and in the Electoral College does not lie in voting, but in population; that all except Indians not taxed, are counted; that negroes are not counted by the three-fifths rule as persons, and two-fifths as property; but that with other revolutions, their equal status has been evolved; that votes are not the test of power or its division among states or sections; — and that it is upon the population that the splendid structure of the Federal system is founded.

The theory of our government is vindicated, in spite of all adverse criticism, in this one fact, that in the Federal system no state is great and no state small. Each has equal representation in the Senate. All are counted in

certain relations as states, irrespective of population. But in the House of Representatives, where the people are most nearly represented, there is every ten years a power to rectify any inequality of states. Let us be thankful for a peaceably ordained constitutional revolution. It moves like the earth in its orbit, with happy alternation of grateful night, prolific day, and benignant seasons. If the smaller states complain of being overbalanced in the House, we must remember that in the Senate and the Electoral College their equilibrium is maintained, substantially and potentially. Let them bow gracefully to the inevitable. If larger states, or any number of states, lose a member of Congress each, the Senate by the terms of the Constitution is unalterable for them also, and their voice is that of an equal and of a power in this body. If in other states there is to be an increase, let us proudly remember that it is the increase of the country and of the popular branch which has not always kept pace with the senatorial increase. It is the growth of our system in all its far-reaching influences by a law greater than the Constitution. These changes should not be left to chance for their representation. So that whether the states be great or small, West or East, North or South, their relative equality and equal dignity is vindicated. "Self-reverent each, and reverencing each; distinct in individuality; but like each other, even as those who love."

There is in the legislative organisms of no other country any semblance to the American system of enumeration and popular representation. Opulence, dignities, titles, vassalage, municipalities, and classes have had their obsequious representatives in all ages and countries, and now and then, by some wild convulsion, the common people, in a fierce, unequal way, have had their will expressed in legislation; but as a general rule the people have been unrepresented, either because of an unfair local distribution of the representation or by the suppression of the franchise. Our Federal system of representation is in every sense republican in fact, form, and spirit. What is representation in a political sense? Rousseau has denied its legitimacy as an agent of society; Guizot combats the theory that individual will is the source of sovereignty, and holds to the doctrine that no individual will has in itself any right to power except it conform to reason. These metaphysical distinctions have been spun into such a thin fibre that by one side it has been held that when you have supplied yourself with a representative you are no longer free. You have lost your sovereignty over your will, and given it a master. The other side retorts: "Your personal will is insufficient for order and security. You employ a servant. He is your slave. You give him suffrage, only to execute your sovereign will."

So that, whether we individually consent to that which our deputy does or omits, we are bound by his act as representing us. Even the minority, by the theory of our system, impliedly consents to the will of the majority, and thus there is practical unanimity. This is the refinement of our system.

But it may be asked whether with this popular basis and its grand results, we have not the same greed for gain, ambition to excel, love of rule, desire for intrigue, and play of unruly prejudice, jealousy, and passion which have made the history of other nations tragical even to their decline and fall. There can be but one answer to this question. Intelligence and morality are the only conservative elements of a republic.

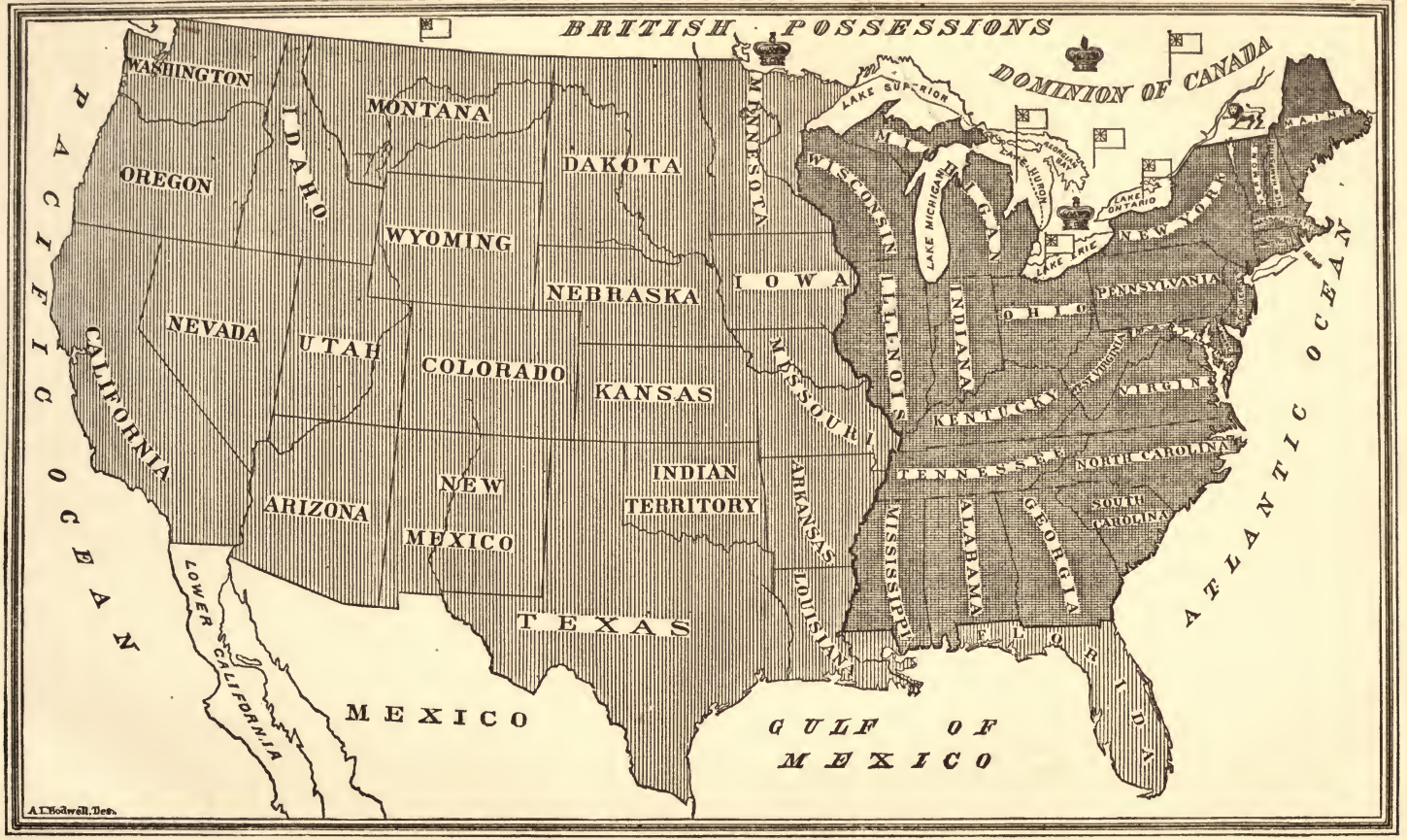
While we remain an intelligent, moral people, who shall compete with us in our abundant harvests, our rich balances of trade, our increase in commerce and expansion of labor, our influx of precious metals, and our inexhaustible mines of coal, iron, copper, gold, and silver? Our exportations and importations, our marvelous immigration, our stupendous inter-state communications and their incomes and outgoes by rail, canal, lake, river, and sea, our inventive faculty, with its miracles of manufacture, and above all and beyond all, our movement westward from ever-renewing centres of a restless population, which in a century has added fifty millions of souls to our active energies, are unparalleled in the history of nations.

What is the vitalizing and ennobling principle of our civilization, and the warrant for its preservation? That warrant is in the virtue, schools, and intelligence of the whole people, who, receiving their broad inheritance endowed in the eons past by geology and its changes with an opulence of fertility and wealth, have transmuted it beyond the dreams of alchemy into manifold and magnificent values, and spread their domain since 1790 from a little strip along the Atlantic into continental proportions, reaching from sea to sea. That principle of civilization is our representative system, which strikes no name, however humble or dependent, from the peerage of the American Republic.

England may boast of her rule in Asia, Africa, and Ireland, and proudly echo the praise which her laureate lavishes on her, as a land of settled government, of just and old renown, and of freedom broadening slowly from precedent to precedent; but she has no popular representation in her Parliament founded on the equal rights of all the people. It was left to her American colonies, a century ago, in this new hemisphere, by a written constitution, to erect a muniment, high and splendid, around the temple of liberty, and to guard it with a unity and force which the division and variety made by mountain and river, and the strong passions of hostile armies, could neither sever nor overcome. Within that muniment, our composite society is assured of protection, stability, and progress. In rearing it every one has builded over against his own house, as in the days of dismantled Jerusalem; so that through the whole mass of our living people, freedom broadens decennially, not from precedent to precedent, but like the bole of the oak, by its inner growth drawn from the soil, sun, and sky, into an intense robust life, which has defied the tempests of the past century, and under God's guidance will defy the storms of centuries to come!

. . . . . .

It is nearly four hundred years since Columbus set in the forehead of his time the jewels of Isabella, the Catholic. The people whom she ruled saw the sails of his caravel expand under favoring breezes from the Andalusian strand, to find a new continent, and found a new empire! Then the red man held undisputed barbaric sway over the vast regions now embraced within our limits. Here, since, arose institutions whose attractive forces created, from out of the loins of the Old World, a nation of freemen. Since then, like the oak, our greatness has expanded, ring on ring. We have spread our boughs from sea to sea! Our country, with its institutions of benevolence and learning, its wealth, splendor, commerce, and liberties, has become the cynosure of all eyes and the refuge of all lands. It is a fitting tribute to our position, history, and freedom, that the genius of republican France is, as we write, sending to us for exaltation within the waters of our great metropolis, the image of Liberty lifting up a lighted torch, as a beacon of promise and symbol of enlightenment to all who traverse the broad seas and seek our asylum. It is our duty to see that the emblem loses nothing of its splendid significance. May it never be said to us, as De Tocqueville said to France: "Are your principles losing their force by your example? Does your application of them lead the world to doubt their truth? Are your regenerating principles — the glory and most precious portion of your history — leading the nations to a happier future, or dragging them down after you in moral degradation?" With vestal vigilance let these principles be ever watched! We need not repair to the golden urns of other skies to re-illume the light which shines like the stars upon our ensign. The youthful, exultant, and defiant spirit of Freedom here enshrined and consecrated fills the land with a common sentiment concerning the Republic, which is the essence of patriotism, and will shed around the splendid gift of our sister republic of the Old World, not the lurid glare which leads astray, but an aureole "only not divine," whose effulgence will make glad the struggling people of all lands, aspiring to a better future.



MAP OF THE UNITED STATES,

SHOWING THE OLD STATES SHADED DARK; FLORIDA, AND ALL THE VAST TERRITORY WEST OF THE MISSISSIPPI RIVER, ACQUIRED BY THE GOVERNMENT WHILE UNDER DEMOCRATIC ADMINISTRATION, SHADED LIGHT.

INDEX.

Abolitionists, their motto, 50.
Cause of proscription of, 51.
Support of nullification, 63.
Vindicated by loose construction of the preamble of the Constitution, 36.
Abolition of slavery, constitutional mode of accomplishing, 322.
Abbott, Josiah G., member electoral commission, 650.
Proposition in the electoral commission, 1877, 655.
Abell, E. A., removed from office by Gen. Sheridan, 544.
Cause of removal of, 544.
Adams, Charles Francis, advocate of measures to allay slavery agitation, 28.
Efforts in Thirty-sixth Congress to avert war, 64.
Member Thirty-sixth Congress, 75.
Member committee of thirty-three, 77.
Sketch of, 91.
As minister to Great Britain takes part in negotiations respecting the *Declaration of Paris*, 270-273.
Instructions from Seward and Lincoln, 352-3.
Adams, J. H., member of South Carolina treaty commission (1860), 110.
Adams, John, causes of his defeat for the presidency by Jefferson, 105.
Course in France respecting Continental paper, 129.
Adams, John Quincy, secretary of state, 44.
Adams Samuel, statue of, 26.
Ad interim secretaries, 582-583.
Aiken, the revenue cutter, seizure of, 146.
Alabama, convention and ordinance of secession, 115-116.
Chooses delegates to Southern Congress, 116.
Treaty commission, 1860, 116.
Condition at close of war, 402.
Provisional government, 403.
Convention of 1865, 404.
Ku-Klux in, 468.
Part of third military district under reconstruction acts, 512.
Registration in, 513.
Constitutional convention in, 1867, 513.
Constitution, provisions of, 514.
Conditions of admission of, to representation, 514.
Financial condition of, 1872, 516.
"Alabama," the, sinking of, by the Kearsage, 211.
Alcorn, James L., Republican candidate for governor of Miss., 1869, 529.
Elected governor, 1869, 530.
Elected U. S. senator, 1870, 530.
Inaugural address as governor, 1870, 531.
His idea of state sovereignty, 531.
Aldrich, Cyrus, member Thirty-sixth Congress, 99.
Alien Acts of 1798, 105.
Aliunde, 653, 658, 660.
Allen, Ethan, statue of, 26.
Allen, Henry W., governor of Louisiana, 1864, 295.
Allen, James C., clerk of the House, 1857, 27.
Alley, John B., member Thirty-sixth Congress, 90.
Allison, Abraham K., governor of Florida, 1865, 419.
Amendment of the Constitution, debate respecting power of, January, 1865, 323-325.
American Anti-Slavery Society, 51.
American Bastile, 225.
"American" party, 50.
Ames, Adelbert, service in assault of Fort Fisher, 212, 313.
Appointed provisional governor of Mississippi, 1868, 527.
Senator from Mississippi, 1870, 530.
Elected governor of Mississippi, 1873, 533.
Course as governor of Mississippi in 1875, 533.
Amnesty proposed by Garrett Davis, June 9, 1864, 316.
President Lincoln's proclamation, 337, 338.
Classes excluded, 338, 346.
President Johnson's proclamation, 346.
Classes excepted, 346, 347.
Henry Winter Davis' plan of, 434.
President Johnson's plan of, 435.
Vicissitudes of the question of, 595-601.
Effect of delay of, in the South, 596.
Incompleteness of, 597.
General Butler's bill for, 595, 598.
Position of Mr. Blaine respecting, 1876, 600.
Established by public sentiment, 601.
Anderson, Robert, abandonment of Ft. Moultrie and occupation of Ft. Sumter, 146.
Declines to surrender, 149.
Attacked, 149.
Surrenders, 149.
Anderson, Thomas L., member Thirty-sixth Congress, 96.
Sketch of, 96.
Anderson, John A., 297.
Antietam, battle of, 188.
Anthony, Henry B., president *pro tem.* of the Senate, 86.
Action in Senate Dec., 1865, 350.
Appomattox, surrender at, 578.
Apportionment of representation the original object of the census, 695.
The law of 1882 respecting basis of, 695, 696.
Archer, Stevenson, member House committee, 1872, on difficulties in Louisiana, 557.
Arkansas, convention and ordinance of secession, 119.
Declaration of cause of her secession, 119.
Delegates sent to Southern Congress, 119.
Campaign in 1862, 174.
Loyal government of, 341.
Legislation recognizing same, 342.
New state government of, recognized by Johnson, 349.
Steps toward reconstruction in, 1864, 436.
President Lincoln's plan for reconstructing, 436.
Ordinance of secession annulled, 436.
Destitution of her people in 1865, 437.
Amnesty act of, 439.
Part of the fourth military district under the reconstruction acts, 534.
Provisional legislature of, forbidden, April, 1867, to reassemble, 534.
Registration in, 534.
Convention and constitution, 534.
Fraud at ratification of constitution, 1867, 534, 535.
Act of Congress for readmitting, 535.
Surrendered by military commander to civil authorities, 535.
Legislation of, 1869, respecting debt of, 536.
Government of, 1868-1875, 535-541.
Constitution of, 1874. 540.
Financial condition of, 542.
Post, capture of, 195.
Arm-in-Arm convention, 619.
Army at the polls, struggle in Congress for repeal of laws permitting, 630-634.
Army of the United States, disqualification for commission in, 616.

Arrests, arbitrary, 223, 224.
Arthur, Chester A., nominated for Vice-President by the Republican party, 1880, 674.
Elected Vice-President, 675.
Becomes President, 676.
Senator Pendleton's civil service reform bill the event of the administration of, 676.
Asboth, Alexander, at Pea Ridge, 174.
Ashe, Thomas S., candidate for governor in North Carolina, 1868, 497.
Ashley, James M., calls up thirteenth amendment in the House, Jan. 6, 1865, 321.
Reports reconstruction bill, Dec. 20, 1864, 342.
Presents articles of impeachment of President Johnson, 583.
Ashmore, John D., member Thirty-sixth Congress, 94.
Sketch of, 94.
Assassination of President Lincoln, 344.
President Garfield, 76.
Atlanta, capture of, 207.
Extent of operations for reducing, 214.
Attorneys, iron-clad oath extended to, in United States courts, 615.
Avery, William T., member Thirty-sixth Congress, 95.
Prisoner at Johnson Island, 95.
Baird, Absalom, proclaims martial law in New Orleans, 1864, 431.
Baker, E. D., disposition toward compromise, 64.
Senator Thirth-sixth Congress, 72.
Sketch of, 90.
Military service and death at Ball's Bluff, 164.
Baker, William, removed from office by Gen. Hancock, 549.
Baldwin, Abraham, 303.
Baldwin, Augustus C., votes for thirteenth amendment, 326.
Ball's Bluff, battle of, 164.
Baltimore, mob in, April 19, 1861, 152.
Banishment, enacted by the Confederate Congress, 246.
Bank, the United States, 142.
Banks, National, act of 1863, establishing system of, 141.
Act of 1864, respecting same, 142.
Secretary Chase's suggestions, 142.
Origin of the system, 142.
Bank notes, national, 141.
State, 142.
Issue of, secured by United States stocks, suggested by Fillmore, 1849, 143.
Bankruptcy act, repeal of, 1878, 671.
Banks of issue, power of states to charter, 143, 144.
Banks, Nathaniel P., elected speaker of the House of Representatives, 50.
Succeeds General Patterson, 162.
In Shenandoah Valley, 183.
At Cedar Mountain, 187.
Captures Port Hudson, 196.
Red River expedition, 210.
Proclamation of, Jan. 11, 1864, 427.
Banks, Nath'l P., general order of, Feb. 13, 1864, 427.
Barksdale, Wm., member of Thirty-sixth Congress, 74.
Favoring secession, 74.
Present at the Keitt-Grow altercation, 76.
Sketch of, 97.
Barnwell, Robert W., member of treaty commission (1860) of South Carolina, 110.
Barrow, Washington, member of military league commission of Tennessee (1861), 120.
Bartholdi statue, 699.
Basse Edward, appointed judge in Texas, 1867, 573.
Baxter, Elisha, elected senator from Arkansas, 437.
Conflict with Joseph Brooks for governorship of Arkansas, 537-541.
Baxter, Richard, persecution of, 606.
Bayard, James A., senator in Thirty-sixth Congress, 71.
Sketch of, 71, 87.
Bayard, Thomas A., member of committee on the electoral count, 637.
Remarks by him in the committee, 642, 644.
Member of electoral commission, 650.
Proposition in the electoral commission, 656.
Beauregard, P. G. T., Confederate general in the attack on Fort Sumter, 148, 149.
Confederate general at Bull Run, 154-156.
Beecher Henry Ward, views respecting restoration of states to their federal relations, 570-572.
Bell, John, presidential candidate, 1860, 60, 61.
Belmont, Mo., Confederates attacked at, by General Grant, 1861, 163.
Benjamin, Judah P., senator Thirty-sixth Congress, 70.
Sketch of, 70.
Attitude toward the Crittenden compromise, 79.
In the Confederate cabinet, 88.
In council at Montgomery upon question of firing on Fort Sumter, April, 1861, 150.
Bentham, Jeremy, queries respecting utility of oath-taking, 604.
Bentonville, battle of, 212.
Berrien, John McPherson, 303.
Big Bethel, battle of, 154.
Biggerstaff, Aaron, Ku-Klux outrages upon, 461, 462.
Bigler, William, senator Thirty-sixth Congress, 76.
Testimony respecting the committee of thirteen, 80.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
Bingham, John A., member Thirty-sixth Congress, 75.
His eloquence and ardor, 75.
Minister to Japan, 75.
Manager in the impeachment of President Johnson, 585.
Sketch of, 585.
Bingham, Kinsley S., senator Thirty-sixth Congress, 89.
Binney, Horace, on the right of the President to suspend the writ of *habeas corpus*, 227.
Birney, James G., anti-slavery candidate for the presidency, 1844, 47.
Black, Jeremiah S., one of the counsel for Milligan before the supreme court, 230.
Secretary of state, 258.
Effort to prevent foreign recognition of Confederacy, 258, 259.
Counsel for President Johnson in impeachment trial, 587.
Speech before the electoral commission, 661-663.
Carpet-baggers described by, 624-626.
Counsel representing Mr. Tilden before the electoral commission in the Florida case, 655.
Blackburn, J. S. C., speech of, March 2, 1877, 665.
Blaine, James G., moves, June, 1864, to lay the Brown substitute for the House reconstruction bill on the table, 340.
Advocates in conference committee power to use army at the polls, 631.
Secretary of state in President Garfield's cabinet, 675.
His genius for politics, 675.
Contrasted with Grover Cleveland, 683.
Blair, Frank P., conference of, with Jefferson Davis, Jan. 12, 1865, 330, 331.
Second visit of, to Richmond with respect to peace, 332.
Blair, Jacob B., urges prosecution of the war, 1865, 314.
Blair, Montgomery, counsel for the plaintiff in error, in the Cummings case, 251.
Blockade proclaimed, 152.
Effect of, 242.
Opposition, 263, 273.
Raised, 346.
Blount, William, impeachment of, 583.
Bocock, Thomas S., attempt to cut off debate on Lecompton, 27, 56.
Member Thirty-sixth Congress, 72.
Parliamentary skill of, 74.
Speaker of the Confederate Congress, 92.
Bonham, Milledge L., member Thirty-sixth Congress, 94.
Sketch of, 94.
Governor of South Carolina, 1864, 295.
Boozer, Lemuel, elected Lieut.-Gov. South Carolina, 503.
Border State convention of congressmen, 28.
Boreman, Arthur I., governor of West Virginia, 195.
Boteler, Alexander R., member Thirty-sixth Congress, 73.
Moves for the committee of thirty-three, 73.
Sketch of, 93.
Botts, John M., leader of moderate Republicans in Virginia, 488.
Bouligney, J. E., member Thirty-sixth Congress, 94.
Sketch of, 94.
Boutwell, George S., discusses limits of power to amend the constitution, January, 1865, 323.

Boutwell, George S., member of committee of investigation, preliminary to impeachment of President Johnson, 581.
One of the managers of the impeachment of President Johnson, 585.
Sketch of, 585, 586.
Boyce, William W., member Thirty-sixth Congress from South Carolina, 74.
Distrustful of secession as a remedy, 74.
Sketch of, 94.
Arraigns Richmond government on state rights grounds, 312.
Boyd, Alexander, murdered by Ku-Klux, 455.
Boyd, James, testimony of, respecting the Ku-Klux, 455.
Bradley, Joseph P., chosen member of the electoral commission, 650.
Announces his vote in the electoral commission in the case of Florida, 653.
Bragg, Braxton, campaign in Kentucky, 1862, 191.
At Stone River, 192.
At Chattanooga, 202.
Branch, Lawrence O'B., member Thirty-sixth Congress from North Carolina, 74.
Distrusts secession as a cure for Southern ills, 74.
Skill in debate, 74.
Sketch of, 93.
Confederate general at Newbern, 1862, 167.
Breckenridge doctrine, 55.
Breckenridge, John C., presidential candidate, 1860, 60, 61.
Senator, Thirty-sixth Congress, 65.
Personal sketch of, 65.
Vice-President, 86.
On the South Carolina chivalry, 410.
Brewster, O. H., election of, as speaker in Louisiana legislature, 556, 557.
Briggs George, attitude toward the Crittenden compromise, 78.
Member Thirty-sixth Congress, 94.
Briggs, George N., member of Massachusetts constitutional convention of 1850, 586.
Bright, Jesse D., senator Thirty-sixth Congress, 72.
Inclination toward the South, 72, 89.
Brooke, John M., 172.
Brooke, J. R., in command of the city of New Orleans, 568.
Brooks, James, discusses the peace negotiation, Jan. 10, 1865, 336.
Brooks, Joseph, conflict with Elisha Baxter for governorship of Arkansas, 537–541.
Brown, Albert G., senator Thirty-sixth Congress, 69.
Sketch of, 69, 88.
Resigns as senator, 114.
Statement by, respecting affairs in Mississippi, 528.
Brown, B. Gratz, proposes legislation deferring admission of states to representation until after suppression of insurrection, 340.
Supports President Johnson's administration, 356.
Brown, John, raid, 50.
Brown, John T., member of Thirty-sixth Congress, 95.
Brown, Joseph E., proclamation as governor of Georgia, April 26, 1861, 111.
Governor of Georgia, 1861, 294.
Governor of Georgia, 1864, 295.
His ability, 296.
Biographical sketch of, 303–306.
Advice to the people, 1865, 397.
Brown, Neil S., candidate against Harris, 1856, 297.
Brown, William G., votes for thirteenth amendment, 326.
Brownlow, William G., elected governor of Tennessee, 295, 349.
Proclamation of, respecting Ku-Klux, 474.
Buchanan, Frank, commanding Confederate ram Virginia, 169.
Buchanan, James, Mr. Polk's secretary of state, 47.
Elected President, 50.
His attempt to defend public property in the Southern States, 146.
Buchanan, J. Rev., driven away by Ku-Klux, 471.
Buchanan, R. C., in command of the fifth military district, 549.
Buckalew, Charles R., 356.
Buckingham, Catharinus P., assistant secretary of war, 192.
Buckner, S. B., Confederate defender at Fort Donelson, 175, 176.
Buell, Don Carlos, in command department of Ohio, 1862, 175.
Takes Bowling Green, 176.
At Shiloh, 177.
Drives Bragg out of Kentucky, 191.
Bulger, M. J., candidate for governor of Alabama, 1865, 406.
Bullock, Rufus B., governor of Georgia, 510.
Bull Run, battle of, 154–156.
Congressmen at the, 157.
Flight from, 158.
Second battle of, 188.
Burch, John C., member Thirty-sixth Congress, 99.
Burlingame, Anson, member Thirty-sixth Congress, 90.
Sketch of, 90.
Burnett, Henry C., member Thirty-sixth Congress, 72.
Confederate senator, 72.
Member Thirty-sixth Congress, 95.
Confederate senator, 95.
Burnside, A. E., his belief that Vallandigham would not be convicted, 83.
His services at Roanoke Island and Newbern, 1862, 166–168.
At Fredericksburg, 192.
In command of the department of the Ohio, 196.
Butler, Benjamin F., occupies Relay House and Federal Hill, Baltimore, 153.
Commanding troops in expedition against Hatteras, 1861, 164–166.
Occupies New Orleans, 193.
His operations against Fort Fisher, 212.
Butler, Benjamin F., opinion of martial rule in District of Columbia in 1865, 232.
One of the counsel against Milligan in the supreme court, 230.
Rule at New Orleans, 425.
One of the managers in the impeachment of President Johnson, 585.
Opens case for managers in impeachment of President Johnson, 589.
Amnesty legislation proposed by, 595, 598.
Butler, M. C., exonerated respecting Hamburg massacre, 467.
Candidate for lieutenant-governor of South Carolina, 505.
Calhoun, John C., favors annexation of Texas as necessary to slavery, 46.
Views upon state sovereignty, 322.
Opinion of legitimate result of emancipation, 364.
Biographical sketch of, 52–54.
His theory of states rights, 101.
California, admission of, 48.
Calvert, Charles B., proposition of, August 5, 1861, for peace amendments to the Constitution, 315.
Democratic vote cast for his proposition of Aug. 5, 1861, 315.
Campaign, political, 1864, 617, 618; 1868, 619–624; 1872, 627–628; 1876, 628–629; 1880, 674; 1884, 683.
Campbell, John A., his part in peace negotiations, 1861, 147, 148.
Confederate commissioner at the Hampton Roads conference, 333.
Counsel for Mr. Tilden in the Louisiana case before the electoral commission, 655.
Cameron Simon, senator Thirty-sixth Congress, 64, 72.
Attitude toward the Crittenden compromise, 79.
Sketch of, 87.
Canby, Edward R. S., commander of the first reconstruction district, 296, 492.
Commander second military district, Sept. 5, 1867, 296, 496.
Capitol, the, description of, 25.
Old halls of legislation, 26.
Statuary hall, 26.
Carpenter, Matt. H., counsel in *ex-parte* Garland, 256.
Counsel for Mr. Tilden in the Louisiana case before the electoral commission, 655.
Extract from his speech before the commission, 655.
Carpenter, R. B., candidate for governor of South Carolina, 505.
Carter, George W., leader of faction in Louisiana, 554.
Career and enterprises of, 555, 560, 561.
Cardoza, Francis L., secretary of state, South Carolina, 503.
Cardoza, J. W., sup't of education, Mississippi, 532.
Carpet-baggers, application of the term, 453.
Rule in the South, 624, 626.
Carthage, Mo., engagement at, 1861, 163.

Casey, James B., collector of customs, New Orleans, 554.
Enterprises of, 560, 561.
Cass, Lewis, Democratic candidate for the presidency, 1848, 48.
Cedar Mountain, battle of, 187.
Census, the system in the United States, 685-689.
Object of constitutional provision, 685.
Sketch of legislation, 685, 686.
Author's bill for census of 1880, 686.
Importance and excellence of results of census of 1880, 687.
Character of census of 1870, 687.
Statistics of population, 687, 688.
Scientific and political purposes, 689.
Need of extending field of, 689.
Showing of increase in population, 690.
Industrial statistics to 1880, 690, 691.
Chamberlain, Daniel H., attorney-general, South Carolina, 503.
Governor of South Carolina, 506.
Sketch of, 506.
Chancellorsville, battle of, 197.
Chandler, Zachariah, attitude respecting conciliation, 1861, 79.
Senator Thirty-sixth Congress, 72, 89.
Secretary of the interior, 89.
Demands the thirteenth amendment, 311.
Charleston, evacuation of, 212.
Chase, Salmon P., resists enforcement of fugitive slave act in Ohio, 61, 62.
Attitude respecting doctrine of states rights, 62.
Views as to expediency of coercion of seceded states, 63, 64.
Attitude toward the Crittenden proposition, 78.
Opinion in Veasie Bank *vs.* the collector, 144.
Dissents from the opinion of the supreme court in the Cummings case, 252.
Demands the thirteenth amendment, 311.
Presides at the trial of the impeachment of President Johnson, 586, 588.
Chase, Samuel, impeachment of, 584.
Chattanooga, battle of, 202,
Chickamauga, battle of, 201.
Choate, Rufus, member Massachusetts constitutional convention of 1850, 586.
Churchill, John C., member of committee of investigation preliminary to impeachment of President Johnson, 581.
Church and the military, conflict between, in Alabama, 408.
Civil officers, attempt by military commander to remove, in North Carolina, 495.
Removal of, in Louisiana, 1867, 544-549.
Civil Rights bill, its relation to states rights, 628.
Civil Service Reform, bill for, a Democratic measure, 676.
Influence of the measure upon selection of Democratic presidential candidate, 1884, 776.
Civil War, the, proximate causes of, 28.
Efforts to avert, 32.
Slavery agitation the cause of, 56.
Could it have been avoided? 78-80.
Civism, wisdom of, 34.
Clark, Daniel, senator, Thirty-sixth Congress, 72.
Amendment to the Crittenden compromise measure, 78-80.
Clark, Horace F., member of Thirty-sixth Congress, 91.
Governor of North Carolina, 295.
Clark, John B., member Thirty-sixth Congress, 96.
Confederate general, 96.
Clark, J. S., his testimony in regard to Ku-Klux in Alabama, 469.
Clarke, Charles, governor of Mississippi, 1864, 295.
Clarksville, capture of, 176.
Clay, Clement C., senator Thirty-sixth Congress, 70.
Sketch of, 70, 88.
Part taken by, in the Niagara peace negotiations, 317.
Clay, Henry, resists attempt to prohibit extension of slavery, 45.
Presidential candidate, 1844, 47.
Clayton, Powell, inaugurated governor of Arkansas, 1868, 535.
His administration denounced, 536.
Elections of, as senator, 536, 537.
His quarrel with Lieutenant-Governor Johnson, 536, 537.
Clemens, Jeremiah, statement of purpose of Confederate government in attacking Fort Sumter, 150.
His loyalty, 150.
Clemens, Sherrard, member of Thirty-sixth Congress, 73.
Union zeal of, 73.
Cleveland, Grover, his party not sectional, 679.
Nominated for President by the Democratic party, 682.
Platform upon which nominated, 682.
Contrasted with James G. Blaine, 683.
Sketch of life, 683.
Compared with Silas Wright, 683.
A Cato, 683.
Inaugurated President, 684.
Cliff, Tony, murdered in Alabama, 1870, 469.
Clifford, Nathan, member of electoral commission, 650.
Presides in the electoral commission, 652.
Clinton, George, statue of, 26.
Clingman, Thomas L., senator Thirty-sixth Congress, 71.
Confederate general, 87.
Clopton, David, member Thirty-sixth Congress, 97.
Member Confederate Congress, 97.
Cobb, Howell, 303.
Cobb, Williamson R. W., member Thirty-sixth Congress from Alabama, 74.
Distrustful of secession as a remedy, 74.
Sketch of, 97.
Cochrane, John, member Thirty-sixth Congress, 76.
Sketch of, 91.
Coercion of a state, power for, 146.
Coffroth, Alexander, he votes for thirteenth amendment, 326.
Coin, public faith pledged in act of March 18, 1869, to payment of bonds in, 136.
Provisions of act of April 2, 1792, respecting, 670.
Standard under that act, 670.
Standard by act of January 18, 1837, 670.
Weight of fractional silver, reduced, act of Feb. 21, 1853, 670.
Question of meaning of term, under act of Jan. 1, 1879, 671.
Coinage act of 1873, 671.
Colfax, Schuyler, member Thirty-sixth Congress, 75.
Afterwards speaker, 75.
Colonies, slavery in the, 37-39.
Collamer, Jacob, statue of, 26.
Senator Thirty-sixth Congress, 64, 72, 86.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
Colquitt, Walter T., 303.
Columbia, S. C., occupation of, 212.
Compromise, author's plea for, in 1861, 31.
Missouri, 45.
Crittenden, proposition, 66, 67.
Commission of seven citizens proposed July 29, 1861, for peace negotiations, 315.
Commissioners' treaty from South Carolina, December, 1860, 146.
Confederate, treaty, 1861, 146, 147.
Confederate, to England and France, October, 1861, 275.
Confederate peace, January, 1865, 327, 328.
Confederate, attendance at the Hampton Roads conference, 333.
Report of, 334.
Commission, electoral, see electoral commission.
Committee with respect to peace amendments to the Constitution, proposed by the author, July 29, 1861, 314.
Of House of Representatives 1872, to investigate difficulties between United States and state officials in Louisiana, 557.
Of House of Representatives, to investigate election of 1874 in Louisiana, 569.
Committees on the electoral count of 1876, constitution of, 637.
Plans and proceedings of, 638-648.
Report of, 648.
Conciliation, efforts toward, 29-32, 64, 66.
Ancient Roman policy of, 31.
Confederacy, surrender of the armies of, 214.

Confederacy, cause of final defeat of, 215.
Occasion for its organization, 241.
Recognition by foreign powers, 242, 258.
Severe measures of, 247.
Justification for, 248.
The recognition of, by foreign powers the purpose of Mason and Slidell, 275.
Geographical limits of, 1864, 309.
Conference, the Hampton Roads, 333.
Confiscation acts of the Thirty-seventh Congress, in effect bills of attainder, 249.
Confiscation in Louisiana, 434.
Confiscations enacted by the Confederate Congress, 246.
Congress, the Thirty-sixth, December session, 1860, 61.
Its men and work, 62-80.
After life of some of its prominent members, 86-99.
Congress, special session of, 1861, 122.
Congressional action, true rule for, 373.
Congress, U. S. S., fight with the Virginia, 169.
Conkling, Roscoe, member Thirty-sixth Congress, 75.
Rare gifts, 75.
His extensive fame, 91.
Member of committee on the electoral count, 637.
Favors "lot" plan, 641.
Course in committee, 643.
Advocates electoral commission bill in the Senate, 649.
Refrains from voting in the Senate upon decision of electoral commission in the Florida case, 656.
Connecticut, states rights in, 106.
Conover, Simon B., senator from Florida, sketch of, 523.
Conscription, correspondence between Seddon and Brown respecting, in Georgia, 305.
Constitution of the United States, fidelity of Democratic party to, 35.
Construction of preamble of, 35-36.
Conflict with the law of nations considered, 244.
Author's proposition July 29, 1861, for amendment of, in order to restore peace and union, 314, 315.
Amendment of, proposed by Mr. Calvert, of Maryland, and Senator Saulsbury, 315.
Views of the author expressed in Congress respecting the power to amend, 321, 322.
Remarks of President Lincoln respecting essentials to validity of amendment to, 344.
Position of parties respecting construction of, 356, 357.
Respect paid to, by the government throughout the war, 364.
Amendments to, proposed by Thaddeus Stevens, 366.
Constitution, state, adopted under the reconstruction acts in Virginia, 489.
Submitted to vote, 492.
North Carolina, 496.
Constitution, state, ratified, 497.
South Carolina, 503.
Georgia, 510.
Alabama, 513.
Submitted, 514.
Florida, 517.
Mississippi, 527.
Vote on, 528.
New election ordered, 529.
Ratified, 529.
Arkansas, 534.
Fraud in election charged, 534, 535.
Louisiana, 548.
Ratified, 549.
Texas, 575.
Ratified, 576.
Revised, of Missouri, 1865, 250, 251.
Amended, of Tennessee, 1864, 382.
Texas, 1866, 400.
Ratified, 401.
New, of Arkansas, 1870, 540.
Amended, of Louisiana, 1870, 554.
Texas, 1876, 575.
Constitution of Southern Confederacy, 117, 118.
Continental Congress, powers of, 127.
Continental bills of credit, 128.
Contraband of war, what are, 265.
Convention, proposed by Garrett Davis, June 9, 1864, to reconstruct the Union, 316.
Convention, Secession, South Carolina, 110.
Georgia, 111.
Mississippi, 114.
Florida, 115.
Louisiana, 115.
Alabama, 115.
Texas, 116.
Arkansas, 119.
Virginia, 119.
North Carolina, 120.
Tennessee, 121.
Convention, Tennessee, under provisional government, January 9, 1865, 382.
North Carolina, Oct. 2, 1865, 384.
Mississippi, 1865, 392.
Georgia, 397.
Texas, 1866, 401.
Alabama, 1865, 404-406.
South Carolina, 1865, 412.
Florida, 1868, 419.
Louisiana, 1864, 428.
Arkansas, 1864, 436.
Held under the reconstruction acts, in Virginia, 489.
North Carolina, 496.
South Carolina, 502.
Georgia, 509.
Alabama, 513.
Florida, 517.
Mississippi, 526, 529.
Arkansas, 534.
Louisiana, 549.
Texas, 575, 576.
Conway, Thomas W., attempts to establish mixed schools in Louisiana, 432.
Cooper and Cary, popular vote for, as candidates of the Greenback party, 1876, 675.
Corcoran, Michael, Col., held as hostage by the Confederate authorities, 243.
Corinth, capture of, May, 1862, 178.
Attack on, October, 1862, 191.
Corwin, Thomas, seeks to allay slavery excitement, 28.
Corwin, Thomas, member Thirty-sixth Congress, 74.
His eloquence, 75.
Member committee of thirty-three, 77.
Humor of, 365.
Coste, M. L., revenue cutter Aiken surrendered by, 146.
Cotton, effects of cultivation of, on slavery, 39, 41.
Its relation to the blockade, 263.
The supply of, from foreign sources, 264.
Cotton-gin of Whitney, relation of, to cotton production, 38.
Coushatta, La., massacre near, August, 1874, 565.
Cowan Edgar, champion of President Johnson's administration, 356.
Craige, Burton, member Thirty-sixth Congress, 93.
Sketch of, 93.
Craig, James, member Thirty-sixth Congress, 96.
Sketch of, 96.
Crandall, Prudence, effort in behalf of the colored race, 41.
Crane, Joseph, Lt.-Col., killed by E. M. Yerger, 531.
Crapo, W. W., debates in the House, the electoral commission, Louisiana action, 657.
Crawford, Martin J., member Thirty-sixth Congress, 74.
Favoring secession, 74.
Sketch of, 96.
Crawford, William H., 113, 303.
Crawford, William J., peace commissioner from the Confederacy, 146.
Credit, Public, causes of its soundness, 131.
Crime in Texas, 1865-'68, statistics of, 574.
Crittenden, George B., Confederate general, at Webb's Cross Roads, 174.
Crittenden, John J., advocate of measures tending to allay irritation caused by slavery, 28.
Senator, Thirty-sixth Congress, 65.
Personal sketch of, 65-68, 88.
Compromise prepared by, 66.
Speech in the Senate respecting his compromise propositions, 66, 67.
Eulogy on Douglas, 67.
Farewell address to the Senate, 67.
Death of, 68.
Stood against extremists, 72, 76.
Responsibility for failure of compromise prepared by, 77-80.
Member of the committee of thirteen, 77.
Vote on the Clark amendment, 79.
Vote in committee of thirteen, on Jefferson Davis' proposition, 115.
Resolutions of July 22, 1861, a union measure, 122.
Compromise proposed by him, directed toward the preservation of the Union and not of slavery, 219.
Accepted by the Democracy of the North, 220.

Crittenden, John J., guest at dinner of Secretary Seward, after Trent affair, 291.
Remarks at, 292.
Purpose of the war declared, in resolutions of July 22, 1861, 362.
Democratic party loyal to same, 363.
Crompton Samuel, indebtedness of the cotton raiser to, 38.
Cumberland, the ship sunk by the Virginia, 169.
Cummings, State of Missouri, 249-255.
Currency, question of, in politics, 629.
Curry, Jabez L. M., member Thirty-sixth Congress, 74.
Not desirous of compromise, 74.
Sketch of, 97.
Curtis, Benjamin R., counsel for President Johnson in impeachment trial, 587.
Curtis, Samuel, R., member Thirty-sixth Congress, 99.
Sketch of, 99.
Services in Missouri (1862), 174.
Cushing, Caleb, president of Charleston Convention, 60.
Custom-house faction, quarrel of, with Warmoth faction of Republican party in Louisiana, 554-561.
Cutter, R. King, credentials as senator from Louisiana reported Feb. 18, 1865, 342.
Daily News, friendly attitude in the Trent affair, 282.
Daly, Charles P., argument respecting recognition of captured Confederate sailors as prisoners of war, 243.
Davidson, Thomas G., member Thirty-sixth Congress, 94.
Sketch of, 94.
Davis, Alexander, Lieut.-Governor of Mississippi, 532.
Davis, David, delivers the opinion of the supreme court in the case of Milligan, 231.
Dissents from opinion of the supreme court in the Cummings case, 252.
Discussed in committee on electoral count, 641-645.
Selection of, for electoral commission expected, 649.
Elected senator from Illinois, 650.
Davis, Edmund J., presides over constitutional convention of Texas, held under reconstruction acts, 574.
Elected governor of Texas, 1869, 576.
Davis, Garrett, proposes, June 9, 1864, steps toward reconstruction, 316.
Personal appearance of, 356.
Davis, Henry Winter, his eloquence and logic, 92.
Speeches against military incarcerations, 233, 234.
Biographical sketch, 237.
President Lincoln's message, Dec. 15, 1863, on, 339.
Protests against conduct of President Lincoln, in withholding signature from reconstruction bill, 341.
His plan for reconstruction, 434, 435.
Davis, Henry Winter, test oath a feature of his reconstruction plan, 602.
Davis, Jefferson, senator Thirty-sixth Congress, 68.
Personal sketch of, 68.
Attitude toward the Crittenden proposition, 77.
President of the Southern Confederacy, 88.
At the battle of Seven Pines, 92.
Resigns as senator, 114.
Proposition in the committee of thirteen, 114.
Slavery esteemed by him the sole ground of controversy, 115.
Chosen provisional President of the Southern Confederacy, 118.
In council at Montgomery, discussing question of firing on Fort Sumter, 150.
Leaves Richmond, 1865, 213.
Mention of at dinner given by Mr. Seward after Trent affair, 292.
Requisition for troops, August 30, 1864, 305.
Dissatisfaction in the South with administration of, December, 1864, 311, 312.
Proposed meeting of governors of Southern States to oppose policy of, as President, 312.
Recent discussion respecting his position on question of secession from Confederacy, 319.
Letter to Governor Z. B. Vance, January 8, 1864, 320.
Capture, confinement, and release of, 579.
Davis, Jefferson C., services in Missouri, 1862, 164.
At Pea Ridge, 174.
Davis, John G., member Thirty-sixth Congress, 76.
Davis, Reuben, member Thirty-sixth Congress from Mississippi, 74.
Distrustful of secession as a remedy for Southern ills, 74.
Sketch of, 97.
Dawes, Henry L., member Thirty-sixth Congress, 91.
Senator, 91.
Discusses limitations of power of amendment to the Constitution, Jan., 1865, 323.
Reports, from committee on elections, resolution for appointment of visiting commission for Southern States, 340.
Dawson, John L., offers peace resolutions in summer of 1864, 317.
Day, S. T., elected lieut.-governor of Florida, 1870, 522.
His contest with Governor Reed, 523.
Dayton, William L., as minister to France, participates in the negotiations respecting the *Declaration of Paris*, 270, 271.
Debt, the public, in 1790, 128; 1846, 126; 1849, 126; 1851, 126; 1857, 126; 1865, 130; 1884, 130.
Declaration of Paris, articles of, 266.
Objection of United States to, 267.
Declaration of Paris, negotiations respecting, prior to 1861, 267.
Preamble and resolutions offered by the author, 1862, 268.
Proposition to Great Britain and France to admit the United States as a party to, 1861, 269, 270.
Conditions of admission, tendered by Great Britain and France, 270.
Rejection of the conditions by the United States, and failure of the negotiations, 270, 271.
De facto, 666-668.
Dejarmette, Daniel C., member of the Thirty-sixth Congress, 72.
Disposed toward a Southern Confederacy, 72.
Member Confederate Congress, 92.
De jure, 666-668.
De Kay, Drake, aid to General Mansfield, 157.
Democratic party, strict constructionists of the Constitution, 35-36.
Success, 240.
Of the North the only Union party, 248.
Attitude of, toward proscriptive measures, 257.
Mr. Seward's sentiments toward, 1868, 274.
Unsparing efforts of, in Congress throughout the war to bring about an honorable peace, 314.
Convention of, at Chicago, 1864, holds out the olive branch, 317.
Its theory of constitutional construction, 356.
Platform of, 1864, 618.
False charges against, 620.
Deeds of, 620.
Its desire for peace, 621.
Its loyalty and services during the war, 621-623.
Attitude of, Dec., 1876, 636.
Its candidates for President and Vice-President, 1877, declared by resolution of the House elected, 668.
Convention at Cincinnati, 1880, 674.
Platform and nominations, 1880, 674.
The civil service reform bill a measure of, 676.
Not sectional, 679.
Reasons for its triumph in 1885, 679-682.
Its pledges, 682.
Democrats, votes of, for the thirteenth amendment on final passage in the House, 326.
Northern, favor doctrine of squatter sovereignty, 55.
Their theory of status of seceding states, 123.
Dent, Lewis, candidate for governor of Mississippi, 1869, 529.
His letter to President Grant, 1869, 530.
Devens, Charles, member of the Hayes cabinet, 670.
Deweese, Robert A., murder of, 566.
Direct tax of 1799, 129.
Of 1861, 140.

Disloyal practices, order of secretary of war, Aug. 8, 1862, for arrest of persons guilty of, 223.
District of Columbia, suffrage bill for, 376.
Disunion, temporary, as a means of peace, 29.
Evils of, 33.
Dixon, James, efforts in Thirty-sixth Congress to avoid war, 64.
Attitude toward President Johnson's administration, 356.
Doolittle, James R., senator Thirty-sixth Congress, 72.
Sketch of, 89.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
Attitude toward President Johnson's administration, 356.
Donelson, Fort, capture of, 175.
Dorman, James, Rev., whipped by Ku-Klux, 471.
Dougherty, Edward, removed from judgeship in Texas, 573.
Douglas, Stephen A., advocate of measures for allaying slavery agitation, 28.
Views of possible modes of avoiding the civil war, 29.
Introduces Kansas-Nebraska bill, 49.
His doctrine of squatter sovereignty favored by the Northern Democrats, 55.
Position respecting Lecompton bill, 56, 58.
Speech at Columbus, 58.
His vote on the conference bill, 58.
Candidacy at the Charleston convention, 59.
Nominated for the Presidency, 1860, 60.
His doctrines finally defeated, 61.
Leader in the Senate of the Thirty-sixth Congress, 63.
Anxious for reconciliation, 64.
Death of, 1861, 67.
Eulogies upon, 67, 68.
View of Southern attitude toward the Crittenden proposition, 77.
Testimony respecting the committee of thirteen, 80.
Following of, 622-623.
Dred Scott decision, effect upon parties, 58.
Dupont, Samuel F., commanding naval forces in expedition against Port Royal, 1861, 165.
Durant, Thomas J., commissioner of registration in Louisiana, 1863, 426.
Declines appointment of governor of Louisiana, 545.
Durell, E. H., president of Louisiana convention, April 1864, 428.
Durkee, Charles, senator, Thirty-sixth Congress, 89.
His hostility to the fugitive slave law, 89.
Duties on imports, statement of, 1860-1864, 138-140.
Edgerton, Frank S., murder of, 566.
Edmondson, Harry A., member Thirty-sixth Congress, 72.
Edmondson, Harry A., member of Confederate Congress, 93.
Edmunds, Geo. F., chairman of senate committee on the electoral count, 1876, 638.
Remarks by him in said committee, 642, 644, 646, 647.
Member of electoral commission, 650.
Education of colored people in Connecticut, efforts toward, 40, 41.
Eggleston, B. B., presides at constitutional convention, Mississippi, 1868, 526.
Eldridge, Charles A., member of committee of investigation, preliminary to impeachment of President Johnson, 581.
Elections, presidential, 1856, 50; 1860, 60, 61; 1864, 617, 618; 1868, 619, 624; 1872, 627, 628; 1876, 634, 635; 1880, 675; 1884, 683.
Elective franchise, question of conferring right of, upon colored persons in the work of reconstruction, 343, 344.
Restricted in Tennessee, 1865, 382.
Military interference with exercise of, 629-634.
Electoral college, states in rebellion declared not entitled to be represented in, 342.
Electoral commission, occasion for, 637.
Committees of Congress for, 637.
Other plans than proposed, 638.
The McCrary plan, 638.
House committee's plan of constituting it from the supreme court, 638, 642.
Question of finality of conclusions of, 638, 639.
Secrecy of deliberations preparatory to, 639.
Committee conferences respecting, 640-648.
The mixed-tribunal plan, 640.
The "lot" feature, 640.
The "lot" feature disclosed, 641.
The "lot" feature abandoned, 641.
The seniority principle of selection of members, 643.
The "cob-house" principle, 646.
The geographical plan, 646.
Agreement of committee, 648.
Passage of bill for, 649.
Constitution of, 650.
First meeting of, 625.
Assumes the regularity of the returns of the Hayes electors in the Florida case, 653.
Excludes evidence, *aliunde*, 653.
Decides the Florida vote in favor of Hayes, eight to seven, 653.
Decides congress concluded by the governor's certificate in the case of the electoral vote of Florida, 653.
Considers the Louisiana returns, 655.
Declines to admit evidence, *aliunde*, 655, 666.
Electoral commission, Louisiana vote in favor of Hayes, eight to seven, 656.
Electoral count, 1877, 652-666.
Filibustering to prevent completion of, 664.
Close of, 665.
Electoral vote, question of right to count, 636, 637.
Ellis, John W., as governor, urges North Carolina to secession, 119.
Governor of North Carolina, 1861, 294.
Ellsworth, Ephraim Elmer, colonel of zouave regiment of Illinois, 154.
Killed at Alexandria, 154.
Ely, Alfred, member Thirty-sixth Congress, 91.
At Bull Run, 157.
Captured, 158.
Emancipation, in other countries, 37.
Emancipation of slaves a legitimate result of the war, 364.
Equality before the law a legitimate result of, 364.
Emancipation proclamation issued, 123.
Proposed by Charles Sumner to be made a statute, 340.
Emory, W. H., commander department of the Gulf, 565.
Course of, in the McEnery-Kellogg contest, 565.
English, James E., votes for thirteenth amendment, 326.
English, William H., nominated by the Democratic party for Vice-President, 1880, 674.
Vote cast for, in the electoral college, 675.
Ericsson, John, service to the Union as an inventor, 172.
Et cetera oath, 606.
Etheridge, Emerson, member Thirty-sixth Congress, 74.
His genius for politics, 74.
Eustis, George, and McFarland, E. I., secretaries of Messrs. Mason and Slidell, 279.
Eustis, George, taken from the Trent, 280.
Letter acknowledging courtesy of Captain Wilkes, 281.
Evarts, William M., counsel before the electoral commission, 1877, 653.
Member of the Hayes cabinet, 669.
Everett, Edward, nominated Vice-President, 1860, 60.
Proposed member of peace commission, 1861, 315.
Ewell, Richard S., in the Shenandoah valley, 183.
At Manassas, 188.
Ewing, Thomas, proposed member of peace commission 1861, 315.
Exchange of prisoners, theoretical obstacles to, 243.
Exposition at New Orleans, lessons of, 678, 679.
Fairfax, Lieut. D. M., boards the Trent, 279.
Captain Wilkes' instructions to, 279.
Fair Oaks, battle of, 184.
Familiar and frequent oath-taking, remarks on the subject, 604-612.
Farm, the, foundation of our industries, 692.

Farm, the, public land devoted to farms, 693.
Homestead system, 694.
Farragut, David G., captures New Orleans, 193.
At Port Hudson, 196.
At Mobile, 210, 211.
Federal Hill fort, occupation of by General Butler, 153.
Federal party, cause of overthrow, 105.
Attitude toward state rights, 105.
Federal system of representation, theory of, vindicated, 696-698.
Federal system, vitality of, 124.
Fellows, J. Q. A., candidate for governor of Louisiana, 1864, 427.
Fenton, Reuben E., senator and governor, 91.
Ferry, Orris S., senator in Thirty-sixth Congress, from Connecticut, 91.
Ferry, Thomas W., presides at the count of the electoral votes, 1877, 652.
Announces decision in matter of Louisiana electoral vote, 660.
Announces result of the electoral count, 665.
Fessenden, William P., senator Thirty-sixth Congress, 72
Secretary of the treasury, 86.
Field, David Dudley, counsel for Milligan before the supreme court, 230.
Counsel for the plaintiff in error in Cummings case, 251.
On the use of the army at the polls, 631.
Field, Stephen J., delivers opinion of supreme court in the Cummings case, 253.
Delivers opinion of supreme court in *ex-parte* Garland, 256.
Member electoral commission, 650.
Considered the action of the electoral commission in the Florida case unjust, 655.
Proposition in the electoral commission, 656.
Fifth Regiment, New York Excelsior brigade, scouting party of, near Fredericksburg, 199.
Fillmore, Millard, candidate of the American party for the presidency, 1856, 50.
Suggests, 1849, issue of bank notes secured by United States stocks, 143.
Proposed member of peace commission, 1861, 315.
Finances, national, prior to the civil war, 125-129.
Management of, during the civil war, 129-144.
Financial crises of 1837 and 1857 131.
Financial state of Virginia, 493.
North Carolina, 499.
South Carolina, 506.
Georgia, 511.
Alabama, 516.
Florida, 524.
Mississippi, 532, 533.
Arkansas, 542.
Louisiana, 550, 553, 569, 570.
Texas, 572, 577.
Fishback, William M., elected senator from Arkansas, 437.
Fisher, Fort, operations against and capture of, 212.
Fitch, Graham N., senator Thirty-sixth Congress, 72.
Attitude toward secession, 89.
Fitzpatrick, Benjamin, nominated Vice-President, 60.
Senator Thirty-sixth Congress, 70.
Sketch of, 87.
Presided over Alabama convention, Sept. 1865, 404.
Flag of the Union, similarity to flag of Confederacy, 308.
Symbolism of the resemblance, 308.
Flanders, B. F., candidate for governor of Louisiana, 1864, 427.
Appointed governor of Louisiana, 545.
Flanagan, J. W., elected senator from Texas, 1870, 577.
Flannegan, Harris, governor of Arkansas, 1864, 295.
Florence, Thomas B., member Thirty-sixth Congress, 76.
Florida, question of acquisition of, 44.
Convention and ordinance of secession, 115.
Delegates elected to Southern Congress, 115.
Military operations in, in 1862, 174.
Provisional government of, 419.
Convention, 1865, 419.
Ordinance of secession declared void, 420.
Part of the third military district, under reconstruction acts, 517.
Registration in, 517.
Constitutional convention in, 517.
The constitution, 517.
The legislature, 517.
Admission to representation, 517.
Installation of state officers of, 518.
Government, 1868-'74, 518-524.
Legislation in, concerning freedmen, 523.
Financial condition of, 1872, 524.
Presidential returns from, at the electoral count, 1877, 637.
Electoral vote of, considered by the electoral commission, 1877, 652.
Decision of the electoral commission, upon electoral vote of, 653.
Vote of, counted for Hayes, 654.
Comparison of case before electoral commission with that of Louisiana, 660.
Flournoy, R. W., experience with Ku-Klux, 472.
Floyd, John B., course as secretary of war, 151.
Abandons Fort Donelson, 175, 176.
Foote, Andrew H., services on the Tennessee River, 175.
Takes Clarksville, 176.
Foote, Henry S., offers resolution in Confederate Congress, September, 1862, for peace, 318.
Sketch of, 319.
Force bill, debate upon, April 4, 1871, 475-479.
Force bill, author's speech upon, 476, 479.
Force bills characterized, 452.
Force or freedom, author's speech from that text, 633.
Foreign power, Confederate union with, suggested, December, 1864, 312.
Foreign relations during the civil war, 258-274.
Mr. Seward's management of, 273.
Forney, John W., incident at house of, 1855, 410.
Forrest, N. B., testimony of, respecting the Ku-Klux, 454, 455.
Forsyth, John, of Alabama, peace commissioner from the Confederacy, 146.
Fort Lafayette, "The American Bastile," 282.
British subjects detained in, 282.
Fort Warren, Captain Wilkes' prisoners detained in, 281.
Foster, Charles, member of committee for investigating Louisiana election of 1874, 569.
Foster, John G., services at Newbern, 1862, 167.
At the battle of Gaines' Mills, 186.
Foster, La Fayette S., efforts in Thirty-sixth Congress to avert war, 64.
President *pro tempore* of the Senate, 86.
Fouke, Philip B., member of the Thirty-sixth Congress, 95.
Obligation to congressional associations, 95.
Fourteenth amendment discussed and condemned, 257.
Franklin, Benjamin, breach between him and John Adams, 129.
Franklin, William B., at West Point, Va., 182.
Franklin, William S., commander sub-district of Winchester, 486.
Frederick, Cæsar, murdered in Alabama, 1870, 469.
Fredericksburg, battle of, 192.
Freedmen, President Lincoln's remarks respecting, in message of Dec. 8, 1863, 338.
Status of, 1867, 375.
Rights refused to, in Tennessee, 1866, 382.
Legislation in North Carolina respecting, 1866, 388.
Legislation respecting the, in Mississippi, 1865, 393.
Legislation respecting the, in Georgia, 1865, 398.
General Granger's order respecting, 400.
Legislation respecting the, in Texas, 401.
In Alabama, 406.
In South Carolina, 415.
In Florida, 420.
In Virginia, 424.
In Arkansas, 436, 438.
Order of General Sickles respecting, 416.
Attitude of, in South Carolina, 1867, 501.
Legislation in South Carolina respecting, 504.
Convention of, at Charleston, 1867, 501.

Freedmen, convention of, at Mobile, Ala., 1867, 512.
Legislation in Florida concerning, 523.
Threatened outbreak of, in Mississippi, 1867, 526.
Legislation respecting the, in Louisiana, 1869, 553.
Persecuted in Texas, 572, 574.
Orders respecting, in Texas, 573.
Freedmen's Bureau, attitude of administration of, toward state courts, 1866, 388.
Acts of establishment of, 441, 442.
President Johnson's vetoes of acts establishing, 444.
Investigation of, 447.
Freedom of the seas, the policy of the United States, 264.
Long asserted by America, 283.
American doctrine of, admitted by Great Britain as a result of the Trent affair, 293.
Free ships and free trade, 289.
Free soil party, 48.
Frelinghuysen, F. T., member of committee on the electoral count, 637.
Remarks in said committee, 642, 643.
Member electoral commission, 650.
Fremont, John C., service in Virginia, 184.
French, Ezra B., member Thirty-sixth Congress, 90.
Second auditor of the treasury, 90.
French, George Z., member of convention and legislature of Alabama, during reconstruction period, 498.
Frye, William P., member of committee of Congress to visit New Orleans to compose political situation, 569.
Frost, Daniel M., surrenders Fort Jackson, Mo., to Capt. Lyon, 163.
Fugitive slave act, irritation produced by, 48.
Its requirement of surrender of fugitives without trial by jury, 51.
Question of its constitutionality, 62.
Opposition in Ohio, 62.
State legislation to nullify, 106-109.
Fusion party in Louisiana, 1872, 562.
Gaines' Mills, battle of, 186.
Ganson, John, offers resolution to investigate the matter of military incarceration, Jan., 1865, 233.
Votes for thirteenth amendment, 326.
Gardner, Frank, surrenders Port Hudson, 196.
Garfield, James A., one of the counsel for Milligan before the supreme court, 230.
Argument in defense of Milligan, 232.
Remonstrates against military incarcerations, 234.
Offers, June 13, 1864, the Brown substitute for House reconstruction bill, 340.
Opposes electoral commission bill in the House, 649.
Garfield, James A., member electoral commission, 650.
Nominated by the Republican party for President, 673.
Elected, 675.
Sketch of, 675.
His inaugural, 675.
Assassination, 675, 676.
His fortitude, 676.
Garland, Augustus H., 31.
Facts in the case of his application for restoration to practice in supreme court, 255.
Decision in said case, 256.
Biographical sketch of, 440, 441.
Elected governor of Arkansas, 1874, 540.
Stand for the repeal of the proscriptive oaths, 616.
Garnett, M. R. H., member Thirty-sixth Congress, 74.
Disposed toward a Southern Confederacy, 78.
His Confederate service, 92.
Wounded at Seven Pines, 92.
Favoring secession, 74.
Oratory at the time of the withdrawal of the states, 64.
Garrison, William Lloyd, established *The Liberator*, 1831, 50.
Gartrell, Lucius J., member Thirty-sixth Congress, 74.
Favoring secession, 74.
Sketch of, 96.
Geutry, Meredith P., 297.
Georgia, secession convention, 111.
Debates in the legislature and convention respecting secession, 111, 112.
Ordinance of secession, 111.
Seizure of United States property, 111.
Payment of debts to northern creditors forbidden, 111.
Election of delegates to Southern Congress, 111.
Military operations in, in 1862, 173.
Campaign, 1864, 206-209.
Declines to respond to Confederate call for troops, 1864, 305.
Peace resolutions proposed in legislature of, 1864, 319.
Desolation following Sherman's march through, 395, 467.
Steps toward reorganization in, 397.
Provisional government of, 397.
Convention, 1865, 397.
Ordinance of secession annulled, 397.
Part of third military district under reconstruction acts, 508.
Civil officers in, continued, 508.
Registration in, 509.
Constitutional convention under reconstruction acts, 509.
Constitution ratified, 510.
Conditions of readmission of, as prescribed by Congress, 510.
Legislature of, 1868, 510, 511.
Debt of, increased under Republican rule, 511.
Financial condition, 1872, 511.
Gettysburg, battle of, 201.
Gibson, George, Jr., commander sub-district of Fortress Monroe, 486.
Gibson, Randall, action in House on decision of electoral commission in Florida case, 657.
Giddings, Joshua R., contended that the Democratic party in 1857 was committed to inter-state slave trade, 39.
Aggressive anti-slavery orator, 75.
Gilmer, John A., member Thirty-sixth Congress from North Carolina, 74.
Distrustful of secession as a remedy, 74.
His wit, 74.
Attitude respecting Crittenden compromise, 78.
Sketch of, 93.
Gilmore, Quincy A., services in operations against Fort Pulaski, 173.
Issues order annulling Gov. Brown's proclamation of May 3, 1865, 397.
Proclamations by, 1865, 411, 412.
Gist, Wm. H., governor South Carolina, 108.
Recommends call of convention to consider the mode and measure of redress, 1860 108.
Gleason, W. H., contest with Governor Reed of Florida, 518.
Gold, coinage of, 670.
Standard of same, 670, 671.
Dollar standard unit of value, 671.
Goldsborough, Louis M., naval services, 1862, 166.
Goodell, William, extract from his work, *Slavery and Anti-Slavery*, 39, 40.
Gordon, John B., 31.
Takes Fort Stedman, 213.
Attacks Fort Hascall, 213.
Testimony respecting state of feeling in the South, 467, 468.
Candidate for governor of Georgia, 510.
Governors of Southern States, 1861, 294; 1864, 295.
Grand Parish, La., outbreak in, April, 1873, 565.
Granger, Gordon, at Mobile, 211.
His order respecting freedmen in Texas, 400.
Granger, R. S., commander sub-district of Richmond, 486.
Grant, General U. S., 31.
Attacks Confederates at Belmont, Mo., 163.
Captures Fort Donelson, 175, 176.
At Shiloh, 177.
His Mississippi campaign, 1863, 194.
Captures Vicksburg, 195.
At Chattanooga, 202.
General-in-chief, March, 1864, 203.
Letter of, April 19, 1861, 220.
Maxim on which he acted, 227.
Remark on complete desolation of the Shenandoah valley, 309, 310.
Letter to Judge Dent, 1839, respecting parties in Mississippi, 529.
Dispatch to General Sheridan respecting construction of reconstruction acts, 546.

Grant, General U. S., course of, respecting difficulties in Louisiana, 1872-3, 562-568.
Receives General Lee's surrender, 578.
Appointed secretary of war *ad interim*, 582.
Clemency of, in the agreement with Lee, 597.
Elected President, 1868, 624.
Elected President, 1872, 628.
Tribute to, 672, 673.
Great Britain recognizes the Confederacy, 258.
Greeley, Horace, favored non-coercion, 64.
Peace correspondence and conference with Sanders, at Niagara, 1864, 317.
Bondsman for Jefferson Davis, 579.
Causes of his selection for the candidacy for the presidency, 597, 598.
Candidate for the presidency, 627, 628.
Green, Ashbel, counsel for Mr. Tilden in the Louisiana case before the electoral commission, 655.
Green, James S., senator Thirty-sixth Congress, 71.
Opposed Douglas on the Lecompton question, 71.
Asserted the vigor of the Constitution in its relation to slavery, 89.
His ability in debate, 89.
Greenback party, platform of 1880, nomination of General Weaver, 675.
Greene, Major-General Nathaniel, statue of, 26.
Griffin, Charles, in command of the fifth military district, 547.
In command of the sub-district of Texas, 572.
Grimes, James W., senator Thirty-sixth Congress, 89.
Sketch of, 89.
Vote in committee on Jefferson Davis' proposition, 115.
Interview of, with President Johnson during impeachment trial, 593.
Reasons for vote of, upon impeachment trial, 593, 594.
Griswold, John A., votes for thirteenth amendment, 326.
Groesbeck, Wm. S., counsel for President Johnson, in impeachment trial, 587.
Grow, Galusha A., member Thirty-sixth Congress, 75.
Sketch of, 75.
Altercation with Keitt, 75, 77.
Grundy, Felix, 297, 298, 440.
Guizot, Francois P. G., favors Swiss secessionists, 261.
Gurley, John A., at Bull Run, 157, 158.
Seeks removal of McClellan, 1861, 159.
Gustinel, Arthur, removed from office by General Hancock, 549.
Guthrie, James, remarks of, 28.
Proposed member of peace commission, 1861, 315.
Personal appearance, 356.
Gwin, William M., senator Thirty-sixth Congress, 72.
Sketch of, 90.
Habeas corpus, suspension of, in 1862, 224.
Habeas corpus, suspended by the Confederate government, 247.
Disregard of, in North Carolina, 458, 459.
Hahn, Michael, governor of Louisiana, 295.
Inauguration, 427.
Sketch of, 427, 428.
Elected senator, 429.
Resigned governorship, 429.
Hale, John P., anti-slavery candidate for the presidency, 1848, 48.
Senator Thirty-sixth Congress, 72.
His wit and humor, 86.
Hale, William, murdered in Alabama, 1870, 466.
Halleck, General Henry W., in command of the Western department, 1861, 163.
At Corinth, 178.
Hallett, Benjamin F., member of the Massachusetts constitutional convention of 1850, 586.
Hamburgh massacre, 467.
Hamilton, Alexander, views on government, 680.
His system the foundation of the Republican platform of 1884, 680.
His scheme of internal revenue to discharge Revolutionary War debt, 129.
Hamilton, A. J., member Thirty-sixth Congress from Texas, 74.
Distrustful of secession as a cure for Southern ills, 74.
Member of committee of thirty-three, 77.
Sketch of, 98.
Provisional governor of Texas, 295.
Condition of affairs at the time of his appointment as governor, 399.
Declaration respecting the freedmen, 399.
Leader of conservatives in Texas constitutional convention, 574.
Candidate for governor, 1869, 576.
Hamilton, Morgan C., leader of radicals in Texas constitutional convention, 574.
Elected senator from Texas, 1870, 577.
Hamlin, Hannibal, Republican candidate for the vice-presidency, 1860, 60.
Vice-President, 86.
Hammond, James H., senator Thirty-sixth congress, 87.
Author of the *Pro-slavery Argument*, 87.
Hampton Roads conference, 333.
Good faith at, 336.
Hampton Roads, naval battle in 168.
Hampton, Wade, 31.
Candidate for governor of South Carolina, 1865, 413.
Advice by him to the freedmen, 1867, 501.
Hancock, W. S., at Williamsburg, 181.
Seward's tribute to, 274.
Assigned to the command of the fifth district, 296.
Assumes command of fifth military district, November 28, 1867, 547.
Hancock, W. S., order of, on assuming command, 547.
Nominated by the Democratic party for President, 1880, 674.
Brilliant record of, 674.
Electoral vote for, 675.
Cause of his defeat for the Presidency, 675.
Hardee, William J., evacuates Savannah, 209.
Hardeman, Thomas, member Thirty-sixth Congress, 96.
Served in the Confederate army, 96.
Harden, B., humor of, 365.
Harlan, James, attitude respecting conciliation, 1861, 79.
Senator Thirty-sixth Congress, 89.
Secretary of the interior, 89.
Statement by, respecting President Lincoln's opinion of the Niagara peace negotiations, 318.
Harper's Ferry, loss of, 189.
Harris, Barry, murdered in Alabama, 1870, 469.
Harris, Benjamin G., casts sole vote against Green Clay Smith's resolutions respecting the prosecution of the war, 316.
Harris, Isham G., governor of Tennessee, 1861, 120.
Message to legislature of Tennessee announcing military league with the Confederacy, 120.
Personal sketch of, 297, 298.
Harris, J. Morrison, member Thirty-sixth Congress, 92.
Gave his efforts to the Union party, 92.
Harris, Thomas L., member Thirty-sixth Congress, 63.
Efforts for peace, 63.
Hart, Ossian B., governor of Florida, 523.
Hartranft, John F., holds Fort Hascall, 213.
Haskin, John B., member Thirty-sixth Congress, 91.
Hastings, Warren, scene at trial of, 355.
Hatteras, Fort, fall of, 1861, 165.
Hatton, Robert, member Thirty-sixth Congress, 95.
Confederate general, 95.
Hawkins, George S., member Thirty-sixth Congress, 72
Cites the withdrawal of Florida as ground for indifference to compromise, 72.
Declines to serve on committee of one from each state, December, 1860, 72, 82.
Sketch of, 99.
Hawkins, R. C., service in expedition against Hatteras, 1861, 164.
Hawley, Joseph R., his reason for voting for the civil rights bill, 629.
Hayes, R. B., declared elected President, 666.
President *de facto* not *de jure*, 666-668.
Sketch of, 669.
Administration of, 670-672.
Vetoed silver bill of 1878, 672.
Hay John, bearer of President Lincoln's letter of July 18, 1864, 318.
Heintzelman, Samuel P., at Williamsburg, 181.

Hemphill, John, senator Thirty-sixth Congress, 89.
Confederate senator, 89.
Henderson, John B., counsel for the State of Missouri in the Cummings case, 251.
Interview of the author with, relating to impeachment trial of President Johnson, 594.
Considerations affecting vote of, on impeachment trial, 594.
Hendricks, Thomas A., Seward's tribute to, 1868, 274.
Senator from Indiana, 356.
Nominated Vice-President, 682.
Vice-President, 1885, 684.
Henry, Fort, capture of, 175.
Henry, Gustavus, member Tennessee military league commission, 1861, 120.
Henry, Patrick, attitude toward slavery, 41, 43.
Herrick, Anson, votes for thirteenth amendment, 326.
Herron, Andrew S., removed from office by General Sheridan, 544.
Cause of removal of, 544.
Hewitt, Abram S., leads movement against use of army at the polls, 629, 631.
Chairman national committee, 1876, 630.
In charge of the army bill in the House, 1877, 630.
Speech of March 3, 1879, respecting the use of soldiers at the polls, 631, 632.
Member of the committee on the electoral count, 637.
Remarks in, 643, 644.
Submits a plan, 645.
Hickman, John, member Thirty-sixth Congress, 75.
Characterized, 75.
Hicks, T. H., as governor of Maryland, endeavors to prevent passage of troops, 152.
Hill, Benjamin H., 303.
Advocates electoral commission bill in the Senate, 649.
Hill, Elias, beaten by Ku-Klux, 466.
Hill, James, secretary of state, Mississippi, 532.
Hill, Joshua, member Thirty-sixth Congress from Georgia, 74.
Distrustful of secession as a remedy, 74.
A Union man, 96.
Hilliard, George S., member of the Massachusetts constitutional convention of 1850, 586.
Hilliard, H. W., Confederate commissioner to negotiate military league with Tennessee, 1861, 120.
Hilton Head, Union occupation of, 166.
Hindman, Thomas C., member Thirty-sixth Congress, 74.
Attitude respecting the Crittenden compromise, 78.
An irreconcilable, 96.
Hoar, George F., member of committee of Congress to compose affairs in Louisiana, 569.
Member of committee on electoral count, 637.
Remarks in, 645.
Hoar, George F., approves final result, 647.
Member electoral commission, 650.
Hoadley, George, counsel for Mr. Tilden in the Louisiana case before the electoral commission, 655.
Hoge-Reed contested election case, 465.
Hoge, S. L., chosen associate justice supreme court of South Carolina, 504.
Holcombe, James P., relation of, to the Niagara peace conference, 317.
Holden, William W., provisional governor of North Carolina, 295.
Authority conferred on, as such, 348.
Proclamation by, as provisional governor of North Carolina, June 12, 1866, 384.
Sketch of, 386.
Career of, as provisional governor, 387.
His efforts against disorders in North Carolina as governor by election, 457-459.
His disregard of the writ of *habeas corpus*, 458, 459.
Impeachment of, 459.
Vote at his election as governor of North Carolina, 1868, 497.
Holland, Clark, murder of, 566.
Holman, William S., member Thirty-sixth Congress, 76.
Homestead system, formulated as a political issue by Free Soil Democracy, 694.
Act establishing, 694.
Hood, John B., 31.
Confederate service in Georgia, 207, 208.
Tennessee campaign, 1864, 209.
Hooker, Charles E., attorney-general, Mississippi, 527.
Hooker, Joseph, 31.
At Williamsburg, 181.
Commanding the army of the Potomac, 196.
At battles of Wilderness and Chancellorsville, 197, 198.
At Lookout Mountain, 202.
House of Representatives, composition of, 695, 696.
House of Representatives, dedication of new hall, 26.
Declares the Democratic candidates elected, March 3, 1877, 668.
Houston, George S., 31.
Member Thirty-sixth Congress from Alabama, 74.
Distrustful of secession as a remedy for Southern ills, 74.
Sketch of, 97.
Houston Samuel, attitude toward the Union, 98.
Governor of Texas, 1861, 116.
His ability, 296.
Biographical sketch of, 300-302.
Howard, Francis Key, his arrest, 226.
Howard, Oliver O., at Chancellorsville, 198.
On the march to the sea, 208.
Commissioner of the Freedmen's Bureau, 446.
Howell, W. T., murder of, 566.
Howe, Timothy O., speech in Senate, Jan. 10, 1866, 350-352.
Sketch of, 354.
Howe, Timothy O., his debate with Reverdy Johnson respecting issues growing out of the war, 355-361.
Compared with Thaddeus Stevens, 365.
Huggins, A. P., Ku-Klux outrage upon, 472, 473.
Hughes, George W., member Thirty-sixth Congress, 72.
Attitude respecting secession, 72.
Hughes, James, takes part in debate on the Lecompton constitution, Dec. 1857, 27.
Humphreys, West W., impeachment of, 585.
Humphries, B. G., elected governor of Mississippi, 1865, 392.
His recommendations respecting status of the negro, 392.
His career, 390.
Resists order removing him from office of governor of Mississippi, 527.
Hunnicutt, James W., radical leader in Virginia, 488.
Charged with incendiary language, 489.
Hunter, Robert M. T., personal sketch of, as senator Thirty-sixth Congress, 70.
Secretary of state for the Confederate States, 87.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
His instructions to Mason and Slidell, 275.
Confederate commissioner at the Hampton Roads conference, 333.
Hunton, Eppa, member of committee on the electoral count, 637.
Remarks in, 647.
Member electoral commission, 650.
Proposition in the electoral commission, 656.
Hunt-Sheldon contested election case, report in, explaining falling off in Republican vote in Louisiana, 552.
Huntsville, capture of, 178.
Hutchins, Wells A., votes for thirteenth amendment, 326.
Impeachment of Wm. Blount, 583; of Judge Peck, 584; of Judge Pickering, 584; of Samuel Chase, 584; of West W. Humphreys, 585.
Impeachment of President Johnson, 581-594.
Vote of senators on trial of, 591.
Incidents of minor history of, 591-594.
Considerations affecting votes of senators upon trial of, 592-594.
Imports, 1860-1883, 1884, 138-140.
Inauguration of Cleveland and Jefferson contrasted, 684.
Industries, effect of legislation upon, 691.
Insurrection, what constitutes it, 145.
Overt acts of, 146.
Proclamation, Aug. 16, 1861, declaring states in state of, 242.
Interest, joint resolution of March 17, 1864, to provide for payment of, 135.

Internal revenue, system of, for Revolutionary war debt, 129.
Act of June 30, 1864, 140.
Interpellation of foreign powers, Mr. Seward's instructions respecting, 262.
Intervention, foreign, apprehension of, and causes of prevention, 1861, 260.
Question of, in Swiss affair, 1847, 260, 261.
Intimidation at presidential election of 1868 in Louisiana, 551, 552.
Iron-clad ships, 172.
Irrepressible conflict, 51.
Issues, political, 1864, 618.
1868, 619, 620.
1872, 627, 628.
1876, 628, 629.
Growing out of the war, constituting theme of debate during second decade, 354.
Involved in the Trent affair, 288.
Iuka, battle at, 191.
Iverson, Alfred, personal sketch of, as senator Thirty-sixth Congress, 70.
Attitude respecting peace settlement, 79.
Character and career, 87.
Iowa, surrender of fugitive charged with crime refused in, 109.
Ireland, the lesson of, 238.
Iredell, James, attitude respecting slavery, 41, 43.
Iron-clad oath, its character as a proscriptive measure, 256, 257.
The author's fight for its repeal, 257.
Enacted July 2, 1862, 602.
Its terms, 602.
Modified form, 604, 605.
A peculiar feature of, 609.
Passed upon by the supreme court in *ex-parte* Garland, 615.
Repealed, 616.
Jackson, Andrew, proclamation of, 1832, against nullification, 145.
Jackson, Claiborne F., governor of Missouri, 1861, 294.
Jackson, Fort, capture of, 193.
Jackson, James, member Thirty-sixth Congress, 96.
Chief justice of Georgia, 96.
Jackson, Thomas J., 31.
In the Shenandoah valley, 183.
Flanks McClellan at battle of Mechanicsville, 185.
At Cedar Mountain, 187.
At Chancellorsville, 197.
General Lee's letter to, 198.
Death from wounds in battle, 198, 199.
Jefferson, Thomas, attitude respecting importation of slaves into Virginia, 37.
His estimate of slavery, 41.
Position as to slavery extension, 42.
President, 43.
Alarmed by the opposition to the admission of Missouri, 45.
Authorship of Kentucky resolutions of 1798, 102.
His views respecting state rights, 102.
Questions involved in his election to the presidency, 105.
Jefferson, Thomas, sentiment respecting continental paper currency, 128.
Milton, Locke, and Algernon Sidney prototypes of, 680.
Democratic platform of 1884 inherited from the days of, 680.
His inauguration a contrast to that of Grover Cleveland, 684.
Jenkins, Albert G., member Thirty-sixth Congress, 72.
Attitude toward secession, 72, 74.
Confederate general, 93.
Jenkins, Charles J., elected governor of Georgia during reconstruction, 509.
Opposition of, to reconstruction acts, 509.
Removed from office of governor by Gen. Meade, 510.
Jenkins, Horatio, effort by, to remove Gov. Reed, of Florida, by impeachment, 518.
Jocelyn, Simeon S., effort for education of colored people, 40.
Johnston, Albert S., 31.
Killed at Shiloh, 177.
Johnson, Andrew, 31.
As President, endeavored to blend reconciliation with reconstruction, 34.
Personal sketch of, as senator Thirty-sixth Congress, 71.
His devotion to the Union, 89.
Appointed military governor of Tennessee, with the rank of brigadier-general, 176.
Approves sentence of military commission in the case of Milligan, 230.
Seward's tribute to, 1868, 274.
His reconstruction policy, 346.
Johnson, President, limitations of amnesty in proclamation of 1865, 346, 347.
Appoints W. W. Holden provisional governor of North Carolina, 347, 348.
States constitutional grounds of his reconstruction policy, 348.
Recognizes reconstructed government of Louisiana, 349.
Proclamations raising blockade, 349.
Recognizes reconstructed government of Arkansas, 349.
Recognizes reconstructed government of Virginia, 349.
Vetoes bill for negro suffrage in the District of Columbia, 376.
Vetoes the reconstruction act, 376, 377.
Sketch of, 381.
Remarks accompanying signature of bill restoring Tennessee to her Federal relations, 382, 383.
His policy in North Carolina, 387.
Letters of, to Governor Sharkey on plan of reconstruction of Mississippi, 391.
Urges ratification by South Carolina of thirteenth amendment, 414.
Vetoes Freedmen's Bureau bill of Feb., 1866, 444, 445.
Condition of affairs at accession to presidency of, 580.
Johnson, President, why selected for vice-presidency, 580.
Political views of, 580.
Cause of Republican quarrel with, 581.
Proceedings preparatory to impeachment of, 581, 583.
Impeachment of, 585-594.
Interview of, with Senators Johnson and Grimes during impeachment proceedings, 593.
Johnson, Reverdy, testimony as to Calhoun's views on secession, 101.
Views respecting belligerent status of the insurgents, 244.
Counsel for the plaintiff in error in the Cummings case, 251.
Of counsel in *ex-parte* Garland, 256.
Proposed member of peace commission, 1861, 315.
Sketch of, 355.
His debate with T. O. Howe, growing out of the war, 355-361.
Conferences at house of, during impeachment trial of President Johnson, 592, 593.
John Brown raid, 50.
Johnson, Cave, postmaster-general in President Polk's cabinet, 47.
Character as a member of Congress, 297.
Johnson, Herschel V., nominated Vice-President, 60.
Johnson, James, appointed by President Johnson provisional governor of Georgia, June 17, 1865, 397.
Calls convention, 1865, 397.
Johnson, Robert W., senator Thirty-sixth Congress, 71.
Attitude respecting secession, 71.
Johnston, Joseph E., 31.
At Bull Run, 155, 156.
In command in northern Virginia, 179.
Seriously wounded, 185.
Georgia campaign, 1864, 206.
Surrenders, April, 1865, 212.
Jones, Charles W., senator from Florida, sketch of, 524.
Jones, George W., attempt to cut off debate on Lecompton, 1857, 27, 57.
Jones, James C., 297.
Joyce, Charles H., takes part in debate on decision of the electoral commission, 657.
Juries, right to serve on, refused to freedmen in Tennessee, 1866, 382.
Different policies of Generals Sheridan and Hancock respecting construction of, 548.
Disqualifications under act June 17, 1862, 603.
Jurors, test oath for, 603.
Efforts to remove disqualifications, 603, 604.
Test oath disqualification repealed, 616.
Jury, trial by, action of the secretary of war respecting, 1862, 224.
Fair jury trials obstructed by test oath system, 603.

Jury, trial by, Democracy of America found in union of public freedom with, 603.
In France, 604.
In Algiers, 604.
In Belgium, 604.
Cause and proof of civilization and liberty, 604.
Justice, James M., outrage upon, by Ku-Klux, 460, 461.
Kansas, attempt to force slavery on, 56.
Kansas-Nebraska bill introduced, 1853, 49.
Kearney, Philip, at battle of Williamsburg, 181.
Kearsarge, the, victory over the Alabama, 211.
Keitt, Lawrence M., member Thirty-sixth Congress, 74.
Sketched, 74, 94.
Altercation with Grow, 75, 97.
Utterances in South Carolina secession convention, 110.
Meeting with John C. Breckenridge, 1855, 410.
Kelley, William D., objection from, 660.
Kellogg-McEnery contest for control of Louisiana government, 562-570.
Kellogg, W. P., inaugurated governor of Louisiana, 1873, 564.
Asked to abdicate, 567.
His police force routed, 567.
Takes refuge in the custom house, 567.
Reinstated and supported by United States troops, 568.
Character of administration of, 569.
Kennedy, Anthony, vote on the Clark amendment to the Crittenden compromise, 79.
Kentucky, feeling in, respecting secession, 1861, 153.
Military operations in, 1862, 174, 190, 191.
Resolutions of, 1798, bearing upon the doctrine of secession, 102, 104.
Key, David M., member of the Hayes cabinet, 670.
King, Austin A., votes for thirteenth amendment, 326.
King, Preston, devotee of anti-slavery, 87.
Kingston, Jesse, Rev., shot by Ku-Klux, 471.
King, William, statue of, 26.
Kinney, John F., urges prosecution of the war, 1865, 314.
Kirk-Bergen rebellion, 458.
Knott, J. Proctor, offers *posse comitatus* clause as amendment to the Hewitt army bill, 630.
Moves for select committee on the electoral count, 1876, 637.
Offers resolution of March 3, 1877, declaring Democratic candidates elected, 668.
Ku-Klux, outrages by, 451-479.
Origin of, 453.
Methods of, 455.
Outrages in North Carolina, 456, 457, 460-462.
Alabama, 468.
Mississippi, 472, 473.
Tennessee, 474.
Arkansas, 475.
Texas, 475.
In Louisiana, 1868, 552.
Attempts at suppression of, in North Carolina, 457.
Ku-Klux, responsibility for, 463, 475.
Kunkel, Jacob M., member Thirty-sixth Congress, 72.
Attitude toward secession, 72.
Lakin, A. S. Rev., his experience with Ku-Klux, 471.
Lamar, L. Q. C., effect of his oratory, 64.
Member Thirty-sixth Congress, 74.
Character as a debater, 74.
Present at the Keitt-Grow altercation, 76.
Career after the war, 97.
Secretary of the interior, 303.
In the Democratic convention of Mississippi, 1875, 533.
Land Public—
Its area, 692.
Acquisition of, 692.
Cost of, 692, 693.
Disposition of, 692, 693.
Receipts from, 692, 693.
Farm acreage, 693.
Area remaining, 693.
Pre-emption laws, 694.
Homestead system, 694.
Homestead law, 694.
Railroad land grant system, 694.
Unearned railroad grants, 695.
Proper disposition of same, 695.
Landrum, John M., member Thirty-sixth Congress, 95.
Lane, Henry S., genius of western politics, 356.
Lane, James H., genius of western politics, 356.
Lane, Joseph, nominated Vice-President, 60.
Senator Thirty-sixth Congress, 72.
Delegate from Territory of Oregon, 90.
Incident in the House, December, 1857, 90.
Larrabee, Charles H., member Thirty-sixth Congress, 99.
Sketch of, 99.
Latham, M. W., senator Thirty-sixth Congress, 72.
Labored for peace, 72, 76.
Law of nations *vs.* the Constitution, 244.
Lawrence, Wm. member of committee of investigation preliminary to impeachment of President Johnson, 581.
Lawton, Alex. R., seized Fort Pulaski by order of Governor Brown, 1861, 304.
Lazear, Jesse, favors an armistice and delegates, 1864, 317.
Leake, Shelton F., member Thirty-sixth Congress, 72.
Member Confederate Congress, 92.
Leach, J. T., proposes, May 23, 1864, in Confederate Congress an armistice and commissioners, 319.
Le Blonde, Frank, favors commissioners, 1864, 317.
Lecompton constitution, author's speech against, December, 1857, 27, 56, 57.
Attempt to cut off debate, December, 1857, 27, 56.
Lee, Robert E., 31.
At Mechanicsville, 185.
Brilliant movements at battle of Chancellorsville, 197.
Crosses the Potomac, 200.
At Gettysburg, 201.
Lee, Robert E., his last efforts before Richmond, 213.
Surrenders, 214.
In supreme command, 311.
Resemblance to Washington, 311.
His anxiety for peaceful, honorable settlement long before surrender, 314.
Surrenders to General Grant, 578.
Letcher, John, as governor, proclaims the secession of Virginia, 119.
Biographical sketch of, 299, 300.
Governor of Virginia, 1861, 294; 1864, 295.
Levee bonds of Louisiana, controversy respecting, 544.
Levy, William M., debates the electoral commission, Louisiana decision, 657.
Liberty, constitutional opposition to the administration in a representative government a safeguard of, 28.
Attitude of the two great parties during the war with respect to personal, 219.
Contest for, after the war, 240.
Success of the party of, 240.
Muniments of, 698, 699.
Lincoln Abraham, planned a peace administration, 30.
Desired to blend reconciliation with reconstruction, 34.
Early theory as to disposition to be made of emancipated slaves, 53.
Republican candidate for the presidency, 1860, 60.
Elected President, 61.
Inauguration of, 100.
Letters to A. H. Stephens, 1860, 114, 122.
Emancipation proclamation, January 1, 1863, 123.
Proclamation calling for 75,000 men, April 15, 1861, 150, 241.
Proclamation of blockade, April, 1861, 152.
His spirit of regard for civil liberty, 227.
Proclamation, August 16, 1861, declaring the state of insurrection, 242.
Scenes of assassination of, 290.
Response of, December 12, 1862, to Fernando Wood's proposition to suspend military operations, 316.
Letter, July 18, 1864, respecting terms of peace, 318.
Disposition to end the war on "liberal terms," 318.
His opinion of the Niagara peace negotiations, 318.
Letter of, to F. P. Blair, January 18, 1865, respecting peace negotiations, 331.
At the Hampton Roads conference, 333.
Amnesty proclaimed by, 337.
Message of, Dec. 8, 1863, 337, 338.
Proclamation of, July 8, 1864, causes dissatisfaction, 341.
Remarks respecting reconstruction, April 11, 1865, 342.
General amnesty his policy of reconstruction, 346.
Opinion on permanence of the Union, 352.

Lincoln, Abraham, with Seward in the minority in asserting states rights, 353.
His theory of the war, 363.
Letter of advice to Governor Hahn, 391.
Letter of, January 20, 1864, respecting reconstruction of Arkansas, 436.
Remarks respecting extension of elective franchise to colored persons, 343, 344.
Remarks respecting question of status of seceded states, 344.
Remarks respecting essentials to validity of constitutional amendment, 344.
The assassination of, 344.
Tribute to, 345.
His policy of charity, 599.
Lindsay, R. B., elected governor of Alabama, 469.
Statement by, respecting Ku-Klux, 469.
Vote at election as governor of Alabama, 516.
Littlefield & Deweese, "lobby lawyers," 498, 499.
Littlefield, M. S., associate of Governor Reed, of Florida, 524.
Livingston, Robert R., statue of, 26.
Course in the negotiations for the Louisiana purchase, 43.
Loan of January, 1847, 127.
March, 1848, 127.
Loan act of 1846, 127; 1837, 131; 1842, 131; 1857, 131; 1858, 131; 1860, 131, 132; Feb. 8, 1861, 132; March 2, 1861, 132; July 17, 1861, 132; August 5, 1861, 132; February 25, 1862, 133; July 11, 1862, 134; March 3, 1863, 134, 135; March 3, 1864, 135; June 30, 1864, 135; March 3, 1865, 136.
Locke, John, a prototype of Jefferson, 680.
Logan, John A., member of Thirty-sixth Congress, 76.
Incident at the battle of Belmont, 95.
At Bull Run, 157, 158.
One of the managers in the impeachment of President Johnson, 585.
Long, Alexander, re-offers, 1864, the peace resolutions offered by the author in 1861, 317.
Longstreet, James, 31.
At Mechanicsville, 186.
Lord, Eleazur, originator of New-York free banking system, 143.
Louisiana, question of acquisition of, 43.
Convention and ordinance of secession, 115.
Loyal government of, 341.
Recognition of, proposed, 342.
Remarks of President Lincoln respecting recognition of loyal government of, 343, 344.
Reconstructed government of, recognized by President Johnson, 349.
Military rule in, 1862, 425.
Movements toward state reorganization, 426.
Convention, 1864, 428.
Gubernatorial election, 427.
New Orleans riot of 1866, 431.
Louisiana, outrages in, 1868, 433.
New Orleans riot of 1868, 433.
Confiscation in, 434.
Part of the fifth military district under the reconstruction acts, 543.
Removal of civil officers in, 1867, 544, 545, 547, 549.
Registration in, 1867, 544.
Removal of Wells, governor of, 545.
Classes excluded from registration in, 546.
Meeting of constitutional convention in, 548.
Constitution, 1868, provisions of, 549.
Financial condition of, 1867-8, 550.
Readmission of, to representation, 550.
Government of, 1868-1874, 550-570.
Outrages and riots in, 551, 552, 565-567.
Difficulties between federal officials and officials of state of, 554-558.
Legislative expenses in, 558, 559.
Debt and liabilities of, 570.
J. S. Black's remarks upon carpet-bag rule in, 625.
Returns from, in the electoral count of, 1877, 637.
Electoral vote of, considered by the electoral commission, 1877, 655.
Decision of electoral commission upon electoral vote of, 1877, 655.
Vote of, counted for Hayes, 660.
Case before electoral commission compared with that of Florida, 660.
Its returning board, 660.
Lovejoy, Owen, member Thirty-sixth Congress from Illinois, 75.
Personal sketch of, 75.
Love, Peter L., member Thirty-sixth Congress, 96.
Lowell, Charles W., postmaster at New Orleans and member of custom-house faction, 554, 560, 561.
Loyal league, 454.
Lubbock, F. R., governor of Texas, 295.
Luke, Wm. C., murdered in Alabama, 1870, 469.
Lumpkin, Joseph H., 113, 303.
Lyon, Nathaniel, services in Missouri, 163.
Lyons, Lord, note in behalf of prisoners in Fort Lafayette, 282.
British minister, dispatch on the Trent affair to, 286-287.
Material progress, 685-699.
McAllister, Archibald, votes for thirteenth amendment, 326.
McBride, Cornelius, Ku-Klux outrage upon, 473.
McCall, George A., at Mechanicsville, 185.
McCardle, W. H., arrest of, 526.
McClellan, Geo. B., in command, 1861, 159.
Author's speech of January, 1862, in answer to strictures upon, 159-162.
Reorganizes army of Potomac, 162.
Campaign of 1862, 179-192.
McClellan, George B., besieges Yorktown, 180.
At Sharpsburg, 188.
At Antietam, 188.
Superseded by General Burnside, 192.
Seward's opinion of, expressed in 1868, 274.
Candidate for the presidency, 617.
Reasons for selection of, by the Democratic party for the candidacy, 617.
McClernand, John A., member Thirty-sixth Congress, 95.
In command army of the Tennessee, 194.
McCrary, George W., member House committee on difficulties in Louisiana, 557.
Member of committee on electoral count, 637.
Submits a plan, 638.
Remarks in, 647.
Member of the Hayes cabinet, 669.
McCulloch, Ben., Confederate service in Missouri, 1862, 174.
McCutcheon, J. A. Rev., driven away by Ku-Klux, 471.
McDonald, Joseph E., one of the counsel for Milligan before the supreme court, 230.
McDowell, Irvin, at Bull Run, 154-156.
Service in Virginia, 183.
Assigned to the command of the fourth district, 296.
Succeeds General Ord in command of fourth military district, 527.
McEnery, John, inaugurated governor of Louisiana, 1873, 564.
McEnery-Kellogg contest for the government of Louisiana, 562-570.
McEnery legislature, members of, arrested by Kellogg party, 565.
McFarland, E. I., and Eustis, Geo., secretaries of Messrs. Slidell and Mason, 279.
McFarland, E. I., taken from Trent, 289.
Letter acknowledging courtesy of Captain Wilkes, 281.
McMahon, John A., debates in the House the electoral commission Louisiana action, 657.
McPherson, James B., commanding army of the Tennessee, 206.
McQueen, John, member Thirty-sixth Congress, 94.
Member Confederate Congress, 94.
McRae, John J., member Thirty-sixth Congress, 74.
Sketch of, 74, 97.
Mackey, O. G., presides at constitutional convention of South Carolina, 1868, 502.
Macon, Fort, capture of, 168.
Madison, James, his attitude toward slavery, 41, 43.
Authorship of the Virginia resolutions of, 1798, 103.
His views on states rights, 103.
Exposition of the Kentucky resolutions, 104.
Attitude in the constitutional convention of 1787, respecting slavery, 117.

Madison, James, American doctrine on right of search laid down by, 289.
Magna charta, 235.
Magoffin, Beriah, governor of Kentucky, 1861, 294.
Magrath, A. G., as governor of South Carolina, attempts to re-establish civil order, 1865, 411.
Maine, first state to ratify the thirteenth amendment, Feb. 7, 1865, 329.
Mallory, Robert, member Thirty-sixth Congress, 73.
Personal sketch of, 73.
Discusses question of limitations. January, 1865, 322.
Mallory, Stephen R., senator Thirty-sixth Congress, 72.
Attitude as such respecting secession, 72.
Services to the Confederacy, 89.
Malvern Hill, battle of, 187.
Mansfield, Jos. K. F., in command department of Washington, 155.
March to the sea, 207-209.
Desolation following thereon, 395.
Marcy, Wm. L., policy respecting the *Declaration of Paris*, 266, 267.
Maritime law, principles of, proposed by the United States, 1854, 266.
Maritime policy of the United States, history of, 265-273.
Mr. Seward's declaration of, Sept. 7, 1861, 272.
Marshall, Humphrey, takes part in debate in the House upon the Lecompton constitution, December, 1857, 27.
Marshall, John A., author of *The American Bastile*, 225.
Marshall, Samuel S., member of committee of Congress to visit Louisiana to effect compromise between parties, 569.
Member of committee of investigation preliminary to impeachment of President Johnson, 581.
Marshal of the United States for North Carolina, conflict between, and the military commander, 495.
Marston, Gilman, member Thirty-sixth Congress, 90.
Military service to the Union, 90.
Martial law declared in the North necessary to successful prosecution of the war, 223.
Sphere of, declared by the supreme court, 231.
Martinsburg, loss of, 200.
Marvin, Wm., appointed by President Johnson provisional governor of Florida 349.
Speech, proclamation, and message, 419, 420.
Maryland, attitude respecting secession, 153.
Invasion of, 1862, 188.
" " 1863, 200.
Mason, George, attitude toward slavery, 41, 43.
Mason, James M., personal sketch of, as senator Thirty-sixth Congress, 70.
Mason, James M., associated with Slidell in the affair of the Trent, 87.
Commissioner of the Confederate States to England and France, 1861, 275.
His instructions as such, 275.
Embarks on the Trent, 277.
Captured by Capt. Wilkes, 279.
Protest against arrest, 279.
Letter acknowledging courtesy of Capt. Wilkes, 281.
Imprisoned in Fort Warren, 281.
Negotiations following arrest of, 286-290.
Released, 292.
Mason, John Y., as minister to France, participates in the negotiations respecting the *Declaration of Paris*, 269.
Massachusetts, constitution of, 1780, 38.
States rights in, 106.
Personal liberty bills of, 107.
Massacre near Coushatta, La., August, 1874, 565.
Master and apprentice act, Mississippi, 1865, 393.
Matthews, Stanley, counsel for Mr. Hayes before the electoral commission, 655.
Maynard, Horace, member Thirty-sixth Congress, 73.
Personal sketch of, 73.
Minister to Turkey and postmaster-general, 95.
Meade, George G., 31.
In command third military district, 510.
At Gettysburg, 201.
Assigned to the command of the third district, 296.
Mechanicsville, battle of, 185.
Meigs, M. C., his services as quartermaster-general, 214, 216.
Memminger, C. G., declaration in the secession convention of South Carolina, 110.
In council upon question of firing upon Fort Sumter, 150.
Meridian riot, 472.
Merrick, Richard T., counsel representing Mr. Tilden before the electoral commission in the Florida case, 655.
Methodists, persecution of, in Alabama, 471.
Mexican war, cause of, 48.
Ultimate effect of, on slavery, 48.
Cost of, 126.
Financial expedients for defraying expense of, 127.
Mexico, suggestions of combination of North and South with relation to, 331, 333, 335.
Michigan, personal liberty bill, 1855, 107.
Miles, W. Porcher, member Thirty-sixth Congress, 74.
Sketch of, 74, 94.
Offers resolution in Confederate Congress that peace with the states severally would be revolutionary, 312.
Military commission, persons arrested for disloyal practices to be tried before, 1862, 224.
For the trial of Milligan, 228.
For the trial of the assassins of President Lincoln, 232.
For Virginia, 485.
Military districts, commanders of, 295, 296.
Established by act of March 2, 1867, 376.
Powers of the commanders, 376, 378, 480.
Military incarcerations, Ganson resolution respecting, 233.
Military situation at the end of the year 1864, 309-311.
Miller, S. F., delivers dissenting opinion of the supreme court in the Cummings case, 252, 254, 255.
Member electoral commission, 650.
Milligan, Lambdin P., his incarceration and release, 227.232.
Millson, John S., member Thirty-sixth Congress, 73.
Union services of, 73.
Personal sketch of, 73, 74, 182.
Mills, Roger Q., opposes electoral commission bill in the House, 649.
Milton, John, a prototype of Jefferson, 680.
Governor of Florida, 1861, 294; 1864, 295.
Biographical sketch of, 417-419.
Minnesota, the ship, fight with the ram Virginia, 170.
Mint, act of April 2, 1792, establishing, 670.
Mississippi, secession convention, 114.
Ordinance of secession, 114.
Campaign in 1862, 191; 1863, 194, 195.
Military operations in, 1864, 203.
Temporary reorganization of, 389.
Provisional government of, 389.
Convention, August, 1865, 391.
The Johnson plan of reorganizing, 391.
Amendments to the state constitution of, 392.
Ku-Klux in, 472, 473.
Part of the fourth military district under the reconstruction acts, 525.
Registration in, 526.
Constitutional convention in, 526.
Constitution defeated, 527.
Ratified, 529.
Elections in, 1868-1875, 528-532.
"National Union Republican" party in, 529.
Admission of, to representation, 531.
Taxes and expenditures, 532, 533.
Missouri, admission of, 45.
Sympathy with seceding states, 153.
Military operations in, 1861, 163.
Campaign in, 1862, 174.
Proscriptive character of its constitution as revised by the convention of January, 1865, 250, 251.
The proscriptive oath of, 613-615.
Persecutions in, 613, 615.
Missouri compromise, 45.
Measure for repeal of, 49.
Mitchell, Ormsby M., captures Huntsville, 178.
Mixed schools in Louisiana, bill for, 553.

Mobile Bay, naval victory in, 210.
Mob of 6th of March, 1873, in New Orleans, 564.
Moderation, author's plea for, 479.
Monitor, the, battle with the Virginia (Merrimac), 170, 171.
Monroe, James, attitude toward slavery, 41, 43.
Policy of his administration in acquiring Florida, 44.
Monroe, John T., mayor of New Orleans, 430.
His relation to the massacre of July 30, 1866, 431.
Removed from mayoralty of New Orleans by General Sheridan, 544.
Cause of removal of, 544.
Montgomery, Wm., member of Thirty-sixth Congress, 76.
Moore, Andrew B., governor of Alabama, 1861, 294.
Moore, Sydenham, member Thirty-sixth Congress, 97.
Killed in the Confederate military service, 97.
Moore, Thomas H., statement respecting affairs in Georgia, 1865, 395.
Moore, Thomas O., governor of Louisiana, 1861, 294.
Moore, Wm. G., private secretary of President Johnson, 591.
Morrill, Justin S., member Thirty-sixth Congress, 75.
Skill in tariff calculations, 75, 90.
Senator from Vermont, 90.
Morris, Edward Joy, efforts in Thirty-sixth Congress to avert war, 64.
Morris, George M., commanding the Cumberland, 169.
Morris, Isaiah, at Bull Run, 157, 158.
Morse, Freeman H., member Thirty-sixth Congress, 90.
Consul to London, 90.
Moses, Franklin J., adjutant and inspector-general South Carolina, 503.
Chief-justice, South Carolina, 504.
Moses, Franklin J., Jr., elected governor of South Carolina, 1872, 506.
Morton, Marcus, member of the Massachusetts constitutional convention of 1850, 586.
Morton, Oliver P., energy as governor, 297.
Member of committee on the electoral count, 637.
Remarks and aspect in committee, 642, 643.
Dissatisfied with the result, 648.
Opposes electoral commission bill in the Senate, 649.
Member electoral commission, 656.
Mower, Joseph A., in command of the fifth military district, 547.
Munfordville, surrender of, 191.
Murphy, Isaac, elected governor of Arkansas, 1864, 436.
Vetoes pension bill, 438.
Murrah, Pendleton, governor of Texas, 1864, 295.
Myers, Amos, urges persistent prosecution of the war, 1865, 314.
Myers, Joseph, attorney-general Mississippi, 527.
Nash, Beverly, statement by, at mass meeting at Charleston, 1867, 501.
Nashville, battle of, 209.
National banks, act of July 12, 1870, for issuance of notes to, 137.
Establishing acts, Feb. 25, 1863, 141.
June 3, 1864, 142.
Origin of system of, 143.
Report of Secretary Chase, Dec., 1861, respecting, 143.
Letter of Orlando B. Potter to Secretary Chase, Aug. 14, 1861, respecting system of, 143.
National Union Republican party in Mississippi, 529.
Navy of the United States, class disqualified for commission in, 616.
Neagle, N. J., comptroller-general South Carolina, 503.
Negro, competent juror in Mississippi, 528.
Nelson, Homer A., votes for thirteenth amendment, 326.
Nelson, Thomas A. R., member Thirty-sixth Congress, 73.
Personal sketch of, 73.
Member of committee of thirty-three, 77.
Counsel for President Johnson in impeachment trial, 587.
Nesmith, James W., senator from Oregon, 356.
Newbern, capture of, 167.
New Grenada, its blockade, 273.
New Jersey, legislation respecting fugitive slaves, 109.
New, John C., action in House on electoral commission, Louisiana decision, 657.
New Madrid, capture of, 176.
New Orleans, capture of, 193.
New-York, personal liberty bill, 107.
Right of transit with slave denied by the courts, 109.
Niagara, peace conference at, 317.
Niblack, William E., Seward's tribute to, 1868, 274.
Nicholson, Alfred O. P., senator Thirty-sixth Congress, 71, 89.
Nodine, John, whipped by Ku-Klux, 461.
Noell, John W., member Thirty-sixth Congress, 96.
Norfolk, evacuation of, 181.
Notes, United States, redemption of, in coin, 671.
North, the, strength of, 214.
Response of the, to call for troops, 1861, 152.
Mechanical skill of, 215.
North Carolina, free colored persons voters in, 1776, 42.
Convention and ordinance of secession, 120.
Loyalty in western, 153.
Operations on coast of, 1861, 164; 1862, 166.
Dissatisfaction with administration of Confederacy near end of war, 312.
Peace resolutions proposed in legislature, 1864, 319.
Contest in, upon question of secession, 1861, 383.
Provisional government, 384.
North Carolina, annulment of ordinance of secession, 385.
Slavery abolished, 385.
Act of the legislature, March, 1866, respecting the negro, 388.
Disorders in, 1868–1871, 455–463.
Part of second military district under the reconstruction acts, 494.
Attempt to remove civil officers in, by the military commander, 495.
Interference of the military commander with U. S. marshal in execution of process in, 495.
Colored persons admitted to the jury box, 496.
Registration in, 496–497.
Constitutional convention in, 496.
Constitution formed under the reconstruction acts in, 496.
Constitution ratified, 497.
State officers of, elected, 497.
Bribery and peculation in, 1867–1869, 497–499.
Bonds of, 499–500.
Restoration of, to full federal relations, 507.
Northrup, Milton H., clerk of House committee upon the electoral count, 639.
Nullification, distinguished from secession, 53.
Advocated by Calhoun, 53.
In Ohio, 63.
Jackson's proclamation against, 145.
Oath of allegiance, 338.
Iron-clad, its character as a proscriptive measure, 256, 257.
Of loyalty, no utility in, 250.
Presented by the Missouri constitutional convention of January, 1865, 251.
Oaths, mode of administering, 609.
Self-nullifying, 609, 610.
Abolition desirable, 610.
What is an, 611.
Forms of, 611.
Political, 602-616.
(See *iron-clad oath* and *test oaths.*)
Remarks on familiar and frequent taking of, 604-612.
Ogbourne, William H., secretary of Alabama convention, September, 1865, 404.
O'Gorman, Richard, effort in behalf of Colonel Corcoran, 243.
"Ohio rebellion," 1857, 81.
Ohio, refusal to surrender fugitives, 109.
Threatened invasion of, 1862, 190.
Olds, Edson B., his arrest, 226.
Olmstead, Charles H., Confederate service defending Fort Pulaski, 174.
Opposition party necessary to free government, 28.
Osborne, Thomas W., senator from Florida, 522.
Ord, Edward O. C., assigned to the command of the fourth district, 295.
Assumes command of the fourth military district under the reconstruction acts, 525.

Ordinances of secession, solemnity of proceedings in conventions adopting, 64.
Question of validity of, discussed, 359.
Ordinance of secession adopted in South Carolina, 108.
Georgia, 111.
Mississippi, 114.
Florida, 115.
Louisiana, 115.
Alabama, 116.
Texas, 116, 117.
Arkansas, 119.
Virginia, 119.
North Carolina, 120.
Tennessee, 121.
Annulled in Tennessee, 382.
North Carolina, 385.
Mississippi, 392.
Georgia, 397.
Texas, 400.
Alabama, 406.
South Carolina, 412.
Florida, 420.
Arkansas, 436.
Action of Texas constitutional convention respecting, 574, 575.
"Oberlin" cases, 62, 93.
Ochsenbein, Ulrich, words in the Swiss Diet respecting threatened foreign recognition of seceding cantons, 1847-260.
O'Conor, Charles, bondsman for Jefferson Davis, 579.
Counsel representing Mr. Tilden before the electoral commission in the Florida case, 655.
Odell, Moses F., speaks in favor of thirteenth amendment, Jan. 9, 1865, 321.
Votes for thirteenth amendment, 326.
Oregon, electoral vote of, 1877, 664.
Orr, James L., personal sketch, 27.
Speaker of Thirty-sixth Congress, 55.
One of the South Carolina treaty commissioners, 1860, 110.
Effort of, in Confederate Congress toward peace, January, 1865, 313.
Elected governor of South Carolina, 1865, 413.
Address by him at Columbia, S. C., 1867, 501.
Address at Charleston, S. C., 502.
Addresses constitutional convention, South Carolina, 1868, 502.
Address on retiring from the governorship, 1868, 504.
Osterhous, Peter J., at Pea Ridge, 174.
Outrages in North Carolina, 456, 457, 460-462.
In Alabama, 468.
In Tennessee, 475.
In Arkansas, 475.
In Mississippi, cause of, 532.
In Louisiana, 1868, 551, 552.
In Texas, report of General Sheridan respecting, 572.
Report of committee of constitutional convention of Texas respecting, 574, 575.
Packard, S. B., inaugurated governor of Louisiana, 1873, 664.
Packard, S. B., contest with McEnery, 562-570.
Packard legislature, Louisiana, 1872, 562.
Paper money, continental bills, 128.
United States notes, 133.
National bank notes, 141.
State bank notes, 142.
Pardon, conditions of, under President Lincoln's amnesty proclamation, 337.
Under President Johnson's proclamation, 347.
Pardoning power and the fourteenth amendment, 601.
Parker, Niles G., treasurer South Carolina, 503.
Parsons, Lewis E., statement by, of condition of people of Alabama, 1865, 402.
Appointed by President Johnson, provisional governor of Alabama, June 21, 1865, 403.
Acts as governor, 403.
Superseded, Dec., 1865, 405.
His testimony respecting Ku-Klux in Alabama, 469.
Parties, issues dividing Democratic and Republican, 35.
Attitude of, respecting personal liberty during the war, 219-240.
Patton, Robert M., elected governor of Alabama, 1865, 406.
Address by, upon assumption of duties, 407.
Payne, Henry B., supporter of Douglas at Charleston convention, 60.
Chairman of select committee House of Representatives on the electoral count, 1876, 637.
Remarks by him therein, 641, 643, 644, 645.
Member electoral commission, 650.
Proposition in the electoral commission, 656.
Peace conference of 1861, responsibility for its failure, 80.
Commissioners from South Carolina, December, 1860, 146.
Commissioners from the Confederate States, 1861, 146, 147.
The outlook for the era of, 217, 218.
Obstacles to, 239.
Efforts of Democrats in favor of, 314.
Resolutions looking toward, proposed in Congress, 315-317.
Plank in Democratic national platform, 1864, 317.
Propositions in the Confederate Congress, 318.
Resolutions favoring, proposed in the legislatures of Virginia, Georgia and North Carolina, and in the Confederate Congress in 1864, 319.
Correspondence respecting negotiations for, between Jefferson Davis and Z. B. Vance, 1864-'65, 320, 321.
Commissioners from the Confederate States, January, 1865, 327, 328.
The Blair negotiation for, 330-332.
Negotiations for, denounced by radicals in Congress, 332.
Conference at Hampton Roads respecting, 333.
Peace conference of 1861, effect of failure of negotiations for, 335.
Resolution offered by the author, Feb. 6, 1865, commending negotiation for, 335.
Debate in the House, Jan. 10, 1865, respecting the negotiations for, 336.
Author answers speeches of Brooks and Stevens respecting negotiations for, Jan. 10, 1865, 336.
Gained, 336.
Pea Ridge, battle of, 174.
Pease, E. M., candidate for governor of Texas, 1866, 401.
Appointed governor of Texas, 1867, 573.
Message to the constitutional convention of Texas, 574.
Peck, E. W., presides at constitutional convention, Alabama, 1867, 513.
Pemberton, John C., surrender of, 195.
Pendleton, George H., speech opposing thirteenth amendment, Jan. 12, 1865, 321.
Discusses the power to amend the constitution, January, 1865, 323.
His civil service reform bill, 676.
Peninsular campaign, 179.
Penn, D. B., leads uprising against Governor Kellogg, of Louisiana, September, 1874, 567.
Pennington, William, speaker of the House, Thirty-sixth Congress, 75, 92.
Sketch of, 75, 92.
Pennsylvania, personal liberty bill, 1847, 107.
Invasion of, 1862, 192.
Invasion of, 1863, 201.
Perry, Benjamin F., appointed by President Johnson provisional governor of South Carolina, 412.
Course of, as governor of South Carolina, 412, 413.
Perry, M. S., as governor of Florida, recommends steps toward secession, 115.
Personal liberty bills, 106-109.
Petersburg, attack in front of, 213.
Pettus, John J., governor of Mississippi, 1861, 294.
Phelps, John S., chairman ways and means committee, Thirty-sixth Congress, 73.
Championed the Union sentiment of Missouri, 73.
Member committee of thirty-three, 77.
Phelps, William Walter, member of committee to investigate election of 1874 in Louisiana, 569.
Phillips, Wendell, demands the thirteenth amendment, 311.
Pickens, Francis W., governor of South Carolina, 1861, 294.
Pickering, John, impeachment of, 584.
Pierce, Franklin, proposed member of peace commission, 1861, 315.
Policy respecting the *Declaration of Paris*, 266, 267.
Pierce, Henry L., opinion of the action of the electoral commission, 660.

Pierpont, Francis H., recognized governor of Virginia, 349.
His government, 423, 424.
Pillow, Gideon J., at Fort Donelson, 175.
Pinchback, P. B. S., assumes the office of governor of Louisiana, 562.
Platform, Democratic party, of 1884, characterized, 680.
Republican, 680.
Poland, Luke P., report respecting affairs in Arkansas, 541.
Polk, James K., his campaign of 1844, 47.
His cabinet, 47.
Polk, Trusten, senator Thirty-sixth Congress, 71.
Governor of Missouri, 71.
His amiability, 89.
Poor-convict oath, the only charitable statutory oath since the war, 612.
Pope, John, takes New Madrid and Island No. 10, 176.
At Corinth, 178.
Placed in command of the army of Virginia, 187.
In command of third military district, 508.
Popular sovereignty, doctrine of, 119.
Population, statistics of, 687, 688, 690.
Relation to representation, 695, 696.
Porter, David, his cruise in the Essex, 289.
Porter, David D., 31.
At New Orleans, 193.
At Vicksburg, 195.
At Arkansas Post, 195.
Red River expedition, 210.
His operations against Fort Fisher, 211, 212.
Porter, Fitz John, at Malvern Hill, 187.
Port Hudson, capture of, 196.
Port Royal, expedition against, 1861, 175.
Posse comitatus clause, 631.
Potter, Clarkson N., member of committee to investigate election of 1874 in Louisiana, 569.
Potter, John F., member of Congress, 76.
Present at the Grow-Keitt altercation, 76.
Potter, Orlando B., plan for national paper currency, 143.
Powell, Lazarus W., senator Thirty-sixth Congress, 72.
Opposed military interference with elections, 88.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
Efforts against use of army at the polls, 629.
Prentiss, Benjamin M., at Shiloh, 177.
Press, freedom of, violated, 229.
Price, Sterling, Confederate service in Missouri, 1861, 163.
Confederate service in Missouri, 1862, 174.
Proceedings *in rem*, part of the vindictive policy, 249.
Proclamation of emancipation, 123.
Of the President, Aug. 16, 1861, declaring state of insurrection, 242.
Proclamation of amnesty, President Lincoln's, 337, 338.
Of amnesty, President Johnson's, 346.
Progress, material, in three decades, 685–699.
Of the nation, 125.
Proscriptions, object of, on the part of the Republican party, 250.
(See test oaths.)
Of fourteenth amendment obsolete, 601.
Protestant Episcopal Church, military interference with, in Alabama, 408.
Provisional governments, legislation for, 339.
Operation of, 380.
Course of, in Tennessee, 381–383.
North Carolina, 384–388.
Mississippi, 389–392.
Georgia, 397–398.
Texas, 399–401.
Alabama, 403–406.
South Carolina, 412, 413.
Florida, 419, 420.
Louisiana, 425–428.
Pryor, Roger A., member Thirty-sixth Congress, 72.
Sketched, 72, 74, 94.
Speech at Charleston urging attack on Sumter, 149.
Pugh, George E., personal sketch, 59.
Senator Thirty-sixth Congress, 72.
Pugh, James L., member Thirty-sixth Congress, 74.
Member Confederate Congress, 97.
Pulaski, Fort, bombardment and surrender of, 174.
Quarles, James M., member Thirty-sixth Congress, 95.
Confederate general, 95.
Quartermaster's department, services of, during the war, 214–216.
Quincy, Josiah, opposes admission of Louisiana, 44.
Quitman, John A., attempts to cut off debate on the Lecompton constitution, 1857, 27, 57.
Radford, Wm., votes for thirteenth amendment, 326.
Railways, employment of, during the war, 215.
Raleigh, N. C., capture of, 212.
Randall, S. J., opposes force bill, 257.
Course as speaker during the electoral count, 1877, 664.
Randolph, John, his part in impeachment of Samuel Chase, 584.
Attitude respecting slavery, 41.
Opposes war of 1812, 53.
Ransom, Matt W., member of committee on the electoral count, 637.
Rebellion, the Ohio, 1857, 81.
Reagan John H., estimate of duration of secession, 65.
At battle of Seven Pines, 92.
Sketch of, 98.
Recognition of Confederacy, proclaimed by Great Britain, 258.
Secretary Black's effort to prevent, 258, 259.
Secretary Seward's effort to prevent, 259, 260.
Reconstruction, not of states but of the Union, 30.
Championship of slavery a principal obstacle to, 36.
President Lincoln's mode of, 338.
Proposed legislation for, 339, 340.
House bill for, passed, 340.
Comparison between House bill for, and President Lincoln's policy, 340, 341.
President Lincoln's signature withheld from House bill for, 341.
Measure for, reported by James M. Ashley, Dec. 10, 1864, 342.
Speech of President Lincoln, April 11, 1865, respecting, 342, 344.
Republican party dissatisfied with President Johnson's measures of, 349.
Party positions on, 357.
Principles of, according to Thaddeus Stevens, 367.
Acts of March 2 and March 23, 1867, 376.
Acts of March, 1867, author's views upon question of constitutionality of, 378, 379.
Provisions of, 480-483, 497.
Question of construction of, in Louisiana, 546.
Of March 21, 1867, operation of section 5 of, in Alabama, 514.
In Virginia, 484-493.
In North Carolina, 495-500, 507.
In South Carolina, 500-506, 507.
In Georgia, 509-512.
In Alabama, 512-516.
In Florida, 517-524.
In Mississippi, 525-534.
In Arkansas, 534-542.
In Louisiana, 544-570.
In Texas, 572-577.
Rector, Henry M., 1861, 294.
Red Cross Flag of Geneva, 614.
Red River expedition, 210.
Reed, Harrison, elected governor of Florida, 1868, 517.
Impeachment of, 518.
Second attempt to remove, by impeachment, 521.
Third attempt to remove, by impeachment, 522.
Registration of voters under the reconstruction acts, Virginia, 487, 488.
North Carolina, 496, 497.
South Carolina, 502.
Georgia, 509.
Alabama, 513.
Florida, 517.
Mississippi, 526.
Arkansas, 534.
Texas, 574.
Louisiana, 544-546.
General Sheridan's dispatch to General Grant respecting same, 544.
Period of same ordered extended, 545.
Classes excluded from, 546.
Texas, 574.
Relay House, occupation of, by General Butler, 153.
Religious teachers, persecution of, in Missouri, 613, 614.
Representation, basis of, 695.
Our system of, vindicated, 696-698.
In Congress, causes of delay in admitting the South to, 30.

Republican movement in Europe, 1848, effect of, upon tendency toward foreign intervention, 1861, 260.
Republican party, methods of constitutional construction, 35, 36.
Rise of, 50.
Attitude of, toward Crittenden compromise, 80.
Its theory of status of seceding states, 123.
The destruction of slavery the main object of, during the war, 221, 222.
Its theory of status of the Southern States, 246.
Object of, in proscriptions, 250.
Its theory of constitutional construction, 356, 357.
In Virginia, division in, 1867, 488.
In Mississippi, platform and ticket of, 1869, 529.
In Louisiana, quarrels in, 554, 558.
Cause of quarrel of, with President Johnson, 581.
Its course in the South, 624.
Stand of, 1876, 629.
Attitude of, Dec., 1876, 636.
Convention at Chicago, 1880, 673.
Platform and nominations, 1880, 673, 674.
Dissensions in, during the administration of President Garfield, 675.
Indictment of, 681.
Resolution, joint, of Congress, Jan. 17, 1863, authorizing the issue of legal tenders to pay the army, 135.
In Congress proposed by the author with purpose of peace, July 29, 1861, 314, 315.
Proposed by Garrett Davis with the purpose of peace, Dec. 3, 1862, 315.
Favoring peace, proposed by C. B. Calvert of Maryland, Aug. 5, 1861, 315.
In the interest of peace, proposed by C. H. Vallandigham, 315.
For appointment of peace commissioners and for an armistice, proposed by Henry May, 1861, 315.
Proposed by Senator Saulsbury, Dec. 4, 1861, favoring peace, 315.
Concurrent, of Dec. 13, 1865, with respect to representation of the seceded states, 349, 350.
Of July 24, 1866, restoring Tennessee to her relations to the Union, 382.
Of Senate, July 3, 1867, calling for information respecting execution of reconstruction acts, 483.
President's answer to, 483, 484.
Of United States Senate, Jan. 14, 1873, inquiring into affairs in Louisiana, 564.
Of March 7, 1867, directing formal inquiry into grounds for impeachment of President Johnson, 581.
Reports under, 581, 582.
Declarative of our republican system proposed by the author, 600.
Resolution, declaring the Democratic candidates elected, March 3, 1877, 668.
Restoration of the states to complete federal relations, importance of, 570-572.
Of seceded states to full federal relations, Tennessee, 382.
Virginia, 493.
North Carolina, 507.
South Carolina, 507.
Georgia, 510.
Alabama, 514.
Florida, 517.
Mississippi, 531.
Arkansas, 535.
Louisiana, 550.
Texas, 577.
Resumption act, January, 1875, 671.
Of specie payment accomplished Jan. 1, 1879, 672.
Of constitutional state government in the South during the Hayes administration, 672.
Returning board of Louisiana, 660.
Revels, Hiram R., elected senator from Mississippi, 1870, 530.
Revolutionary war, efforts to defray expenses of, 128, 129.
Revenue, the surplus, 141.
Reynolds, Dean, beaten by Ku-Klux, 471.
Reynolds, J. J., in command of fifth military district, 549.
Course of, as commander of fifth military district, 576.
Senator from Texas, 1871, 577.
Rice, Alexander H., member Thirty-sixth Congress, 90.
Governor of Massachusetts, 90.
Rice, Americus V., debates in the House the electoral commission Louisiana action, 657.
Rice, Henry M., senator Thirty-sixth Congress, 72, 90.
Votes in committee of thirteen on Jefferson Davis' proposition, 115.
Rice, John H., urges prosecution of the war, 1865, 314.
Richardson, William A., delegate to Charleston convention, 60.
Member Thirty-sixth Congress, 63.
At Bull Run, 157, 158.
Richmond, evacuation of, 213.
Times, censured by General Schofield, 485.
Riddle, Albert G., at Bull Run, 157, 158.
Account of the flight from Bull Run, 158.
Right of search, not an American doctrine, 283.
England an advocate of, 283.
American position as to doctrine of, stated, 289, 290.
Rights of the negro, their security, 679.
Risley, Miss Olive, at dinner given by Secretary Seward after Trent affair, 291.
Roanoke Island occupied, February, 1862, 166.
Robertson, Thomas J., elected senator from South Carolina, 504.
Robinson, James F., governor of Kentucky, issues proclamation to repel E. Kirby Smith's raid, 190.
Rogers, Andrew J., offers peace resolution in the House, 1864, 317.
Commanding gun-boats at Fort Pulaski, 173.
Rollins, James Sidney, votes for thirteenth amendment, 326.
Roman, Andre B., peace commissioner of the Confederacy, 1861, 146.
Rosecrans, William S., at Iuka and Stone River, 191.
Holds Chattanooga, 201.
Rowan, Stephen C., commanding *Pawnee* in expedition against Hatteras, 1861, 164.
Commanding naval forces in operation against Newbern, 1862, 167.
Ruffin, Thomas, member Thirty-sixth Congress, 74.
Died of wounds, 93.
Runnymede, 235.
Rusk, Thomas J., senator from Texas, 1845, 302.
Russell, Earl, course in negotiations with the United States, respecting the Paris declaration, 270, 271.
Respecting our blockade, 1861, 273.
In correspondence on the Trent affair, 281, 286.
Urged by Liverpool merchants to break the blockade, 282.
Dispatch on Trent affair, 286, 287.
Rust, Albert, member Thirty-sixth Congress from Arkansas, distrustful of secession as a remedy, 74.
Member committee of thirty-three, 77.
Confederate general, 96.
Sketch of, 96.
Sanders, George N., his part in the Niagara peace negotiations, 317.
Sketch of, 317.
San Jacinto, the battle of, 302.
U. S. Steamship, Capt. Charles Wilkes in command of, 276.
Santa Anna, defeated by Houston at San Jacinto, 302.
Saulsbury, Willard, senator Thirty-sixth Congress, 71.
Sawyer, Frederick A., elected senator from South Carolina, 504.
Schenck, Robert C., urges prosecution of the war, 1865, 314.
Extract from speech of, 314.
Schofield, John M., commanding army of the Ohio, 206
Services in Tennessee, 1864, 209.
Appointed secretary of war, 296.
Military commander first reconstruction district, 484.
Schurz, Carl, at Chancellorsville, 198.
Member of the Hayes cabinet, 670.
Schofield, Glenni W., member of House committee, 1872, respecting difficulties in Louisiana, 557.
Scott, Charles L., member Thirty-sixth Congress, 99.
Scott, Richard K., elected governor of South Carolina, 1868, 503.
Re-elected, 1870, 505.
Search, right of, the doctrine advocated by England, 283.

Search, right of, denied by the United States, 286, 290.
Sebastian, William K., senator Thirty-sixth Congress, 71.
Expelled from Senate, 71.
Expulsion revoked, 71.
Secession, denounced by the author in 1861, 31-34.
Theory of, 34.
Design of the movement, 51.
Distinguished from nullification, 53.
Doctrine of, repudiated by Calhoun, 53, 101.
Doctrine of, not in the Kentucky resolutions of 1798, 102.
Southern views in 1861, as to seriousness and permanency of, 65.
Doctrine of, not in the Virginia resolutions of 1798, 103.
The South Carolina declaration of causes of, discussed, 109.
Protests in the Southern States against, 121.
Question of validity of, 123.
Theories of effect of, upon status of states, 123.
Is it war or insurrection, 145, 364.
Sympathy with, in Kentucky, Maryland, and Missouri, 153.
In the Swiss republic, 1847, 260, 261.
From the Confederacy, right of, mooted in the Southern States, 313.
From the Confederacy, position of Jefferson Davis respecting right of, 319.
Question of actuality of, debated, 357-361.
Author's views on question of validity of acts of, 361-364.
Invalidity of, recognized by Congress and the supreme court, 361.
Ordinances of, adopted and annulled. (See ordinances of secession.)
Ordinances of, state conventions adopting. (See conventions.)
Opposition to, in the South, 622.
Secret societies, 453.
In foreign countries, 476-478.
Sectional hostility, causes of, 1856, 51.
Sectionalism, consequences of, 27.
Sectional strife, stand of Republican party on memories of, 1876, 629.
Seddon, James A., Confederate secretary of war, his rejoinder to Governor Brown, 305.
Sedition act of 1798, 105.
Sedgwick, Charles B., member Thirty-sixth Congress, 91.
Honored his profession, 91.
Sedgwick, John, at Chancellorsville, 197.
Sedgwick, Theodore, held that slavery was abolished by the Massachusetts constitution of 1780, 38.
Seizure, right of, upon the high seas, 265-272.
Senate of worthies, 26.
Seelye, Julius H., speech in House on counting Florida electoral vote, 1877, 657.
Opinion of the action of electoral commission, 660.
Senter, DeWitt C., governor of Tennessee, 298.
Sequestration of property enacted by the Confederate Congress, 246.
Seven Pines, battle of, 184.
Seymour, Horatio, candidate of the Democratic party for the presidency, 1868, 619.
Union sentiments of, during the war, 620.
Seward, Mrs. Frederick W., at dinner given by Secretary Seward after Trent affair, 291.
Seward, William H., declares the "irrepressible conflict," 51.
Senator Thirty-sixth Congress, 72.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
Secretary of state, 147.
Correspondence with peace commissioners of the Confederacy, 147, 148.
His administration of state department criticised, 227.
Circular of March 9, 1861, respecting recognition of the Southern States as a belligerent power, 259.
Instructions of March 26, 1861, respecting foreign interference, 262.
Letter, April 6, 1861, to Mr. Corwin, minister to Mexico, respecting foreign interference, 262, 263.
Circular of April 24, 1861, respecting the *Declaration of Paris*, 279.
Letter to Minister Adams, Sept. 7, 1861, respecting the *Declaration of Paris*, 271, 272.
Letter to Minister Adams, July 21, 1861, respecting the blockade, 273.
Speech at Auburn, Oct. 31, 1868, 274.
Tribute to, 274.
Reply to Lord Lyons, on detention of British subjects in Fort Lafayette, 282.
Could Wilkes' act in the Trent affair be disavowed by? 283.
Author's confidence in, 285.
Vindicated the freedom of the seas, 286.
Reply to British dispatch on Trent affair, 287, 289.
Agrees to surrender the confederate commissioners, 289.
House occupied by, during time of Trent affair, 290.
Table-talk at dinner given by, after Trent affair, 291, 292.
Points out Captain Wilkes' mistake in the Trent affair, 281, 288, 289.
His policy and course in the affair of the Trent, 281, 284, 293.
The victory won by him in the Trent affair, 292, 293.
Merits of his course in Trent affair considered by Mr. Sumner, 293.
Thought an amendment to the Constitution abolishing slavery absolutely necessary, 310.
At the Hampton Roads conference, 333.
Seward, William H., letter to Minister Adams, Feb. 9, 1865, respecting the Hampton Roads conference, 335.
Held states indestructible, 352.
Declares allegiance due to states as well as to the Union, 353.
Correspondence with Gov. Perry respecting ratification of thirteenth amendment, 414.
Attempted murder of, 578.
Shaftesbury, Lord, action on Trent affair, 283.
Sharkey, William L., 31.
Provisional governor of Mississippi, 389.
Biographical sketch of, 389, 390.
Sharpsburg, battle of, 188.
Shaw, Lemuel, member of the Massachusetts constitutional convention of 1850, 586.
Shellabarger, Samuel, political campaign, 1862, 190.
Counsel for Mr. Hayes before electoral commission, 655.
Shepley, George F., appointed governor of Louisiana, 1862, 425.
Sheridan, Philip H., 31.
Assumes command of the fifth military district under the reconstruction acts, 543.
Dissents from attorney-general's interpretation of reconstruction acts, 546.
Statement of, respecting his course as military commander of the fifth district, 573.
Sherman, John, member Thirty-sixth Congress, 75.
Influence upon our financial policies, 75.
His manner, 356.
Opposes electoral commission bill in the Senate, 649.
Member of the Hayes cabinet, 669.
Sherman, Thomas W., service in expedition against Port Royal, 1861, 165.
Sherman, Roger, statue of, 26.
Sherman, William T., 31.
At Vicksburg, 195.
At Arkansas Post, 195.
At Shiloh, 177.
In command army of the Tennessee, 202.
Services in Mississippi, 1864, 203.
Georgia campaign, 206.
Capture of Atlanta, 207.
March to the sea, 208, 209.
March through the Carolinas, 212.
Fights Gen. J. E. Johnston at Bentonville, 212.
Maxim on which he acted, 207.
Effect of his successes, 310.
Clemency of, in his agreement with Johnston, 597.
Shields, James, services in Virginia, 184.
Shiloh, battle of, 177.
Sidney, Algernon, a prototype of Jefferson, 680.
Influence of his teachings upon our institutions, 652.
Sickles, Daniel E., member Thirty-sixth Congress, 76.
Organizer of the Excelsior brigade, 91.
His military and diplomatic services, 91.

Sickles, Daniel E., order respecting freedmen, 416.
Assumes command of second military district, March 21, 1867, 494.
Advice to the freedmen in South Carolina, 501.
Address to board of trade, Charleston, S. C., 502.
Sigel, Franz, service at Carthage, Mo., 163.
At Pea Ridge, 174.
Silver, remonetization of, 670–672.
Coinage of, 670-672.
Standard for same, 670, 671.
Trade dollar, 671.
Silver dollar, restoring act, Feb. 28, 1878, 671, 672.
Coinage of, thereunder, 672.
Simmes, William E., member Thirty-sixth Congress, 72.
Confederate senator, 72.
Singleton, Otho R., member Thirty-sixth Congress, 97.
Member Confederate Congress, 97.
Sisters of charity, persecution of, in Missouri, 614.
Sixth Massachusetts regiment, mobbed in Baltimore, April 19, 1861, 152.
Slavery, early irreconcilable with northern sentiment, 36.
Its championship the chief obstacle to reconstruction, 36.
Origin and spread of, 37.
Abolition in other countries, 37.
Colonial, 37-39.
Strengthened by the cotton-gin, 38.
Spread in the South of sentiment favoring, 41.
Territorial question concerning, 42.
Question of, as affecting acquisition of Louisiana, Florida, and Texas, 43-45.
Agitation against, attending the admission of Missouri and annexation of Texas, 45.
Support of its claims to recognition by the Constitution, the political touchstone in the South, 45.
Success of friends of extension in 1844, 47.
Southern views of its constitutionality, 49.
Northern and southern views of, 52.
Calhoun's views of, 54.
The extreme southern doctrine, 55.
Question of extension of, 55.
Question of, in the Charleston convention, 59.
Its ultimate extension believed in by the supporters of the Crittenden compromise, 219.
Death of, recognized by R. E. Lee and Jefferson Davis, 313.
Constitutional right to abolish, 322.
Author's view of, 325.
Status of, January, 1865, 326.
Abolition of, declared by Tennessee, 382.
North Carolina, 385.
Mississippi, 392.
Slavery, abolition of, declared by Georgia, 398.
Texas, 401.
Alabama, 404.
South Carolina, 412.
Florida, 420.
Louisiana, 428.
Arkansas, 437.
Slaves, Confederate Congress resolves to arm, 213.
Slidell, John, senator Thirty-sixth Congress, 70.
Sketch of, 70, 88.
Diplomatic agent of the Confederacy, 275.
His instructions, 275.
Embarks upon the steamer Trent, 267.
Captured by Captain Wilkes, 279.
Protests against arrest, 279.
Letter acknowledging courtesy of Capt. Wilkes, 281.
Imprisoned in Fort Warren, 281.
Questions involved in capture of, 286–290.
Released, 292.
Slocum, Henry W., on the march to the sea, 208.
Social equality, impracticability of, 54.
Bill to insure, in Louisiana, 553.
Southern Confederacy, formation of, 117.
Constitution, 117, 118.
South, the, its grievance, 63.
Withdrawal of states of, 64.
Attitude of the people toward peace in, 1861, 222.
The radical proscription of the people of, violative of the Constitution, 248, 249.
Effect of delay of full amnesty upon, 596.
Resumption of constitutional state government in, 672.
Entire electoral vote of, cast for Hancock and English, 675.
Character of its people before and since the war, 678.
Its complete restoration, 679.
Smith Charles, credentials as senator from Louisiana reported, Feb. 18, 1865, 342.
Smith, E. Kirby, Confederate service in Kentucky, 190.
Smith, Gerrit, demands the thirteenth amendment, 311.
Smith, Green Clay, urges prosecution of war, 1865, 814.
Proposes resolutions declaring prosecution of the war a duty, 316.
Smith, H. Boardman, member House committee, 1872, on difficulties in Louisiana, 557.
Smith, J. Brenton, testimony respecting Governor Holden's conduct, 459, 460.
Smith, Joseph B., commanding the frigate Congress, 170.
Smith, Samuel A., member of Congress, 1857, 27.
Smith, William, member Thirty-sixth Congress, 72.
Personal sketch of, 73, 92, 93.
Smith, Wm. H., governor of Alabama, 515.
Smith, Wm. N. H., member Thirty-sixth Congress, 93.
Chief-justice North Carolina, 93.
South Carolina, leads secession movement in 1860, 108–110.
Ordinance and declaration of causes of secession, 108.
Debate in secession convention, 110.
Election of delegates to Southern Congress, 110.
Treaty commission, 1860, 110, 146.
Operations on coast of, November, 1861, 165.
Military operations in, in 1862, 173.
Sherman's march through, 212.
Colored population of, 409.
Her sufferings from the war, 411.
Provisional government of, 412.
Ordinance of secession annulled, 412.
Intimidation in, at elections, 464.
Ku-Klux outrages in, 466.
Hamburgh massacre, 467.
Part of second military district under the reconstruction acts, 494.
Negro population of, 501.
Attitude of the freedmen, 1867, 501.
Registration of voters, 1867, 502.
Constitutional convention under reconstruction acts, 502.
Provisions of constitution of, 1868, 503.
Constitution of, ratified, 503.
Election in, for state officers and legislature, 1868, 503.
Legislation in, 1868-1871, 504, 505.
Misgovernment in, 504–506.
Indebtedness of, 506.
Restoration of, to full federal relations, 507.
Presidential returns from, in the electoral count of 1877, 637.
Electoral vote counted, 1877, for the Republican candidate, 664.
Sovereignty, popular, 49.
State, stand respecting taken by Governors Brown and Vance, 1864, 305.
Author's speech in Congress, 1865, respecting, 322.
Calhoun's doctrine of, 322.
Spanish-American republics, Mr. Seward's policy respecting, 263.
Sparks, William A. J., in conference committee insists upon repeal of power to use army at the polls, 631.
Spaulding, Elbridge G., member Thirty-sixth Congress, 91.
Connection with our banking system, 91.
Specie payments, question of, in politics, 629.
Act for resumption of, 671.
Resumption of, 672.
Speed, James, attorney-general, 230.
Counsel in the Milligan case, 230.
Counsel in *ex-parte* Garland, 256.
Speer, R. Milton, member House committee, 1872, on difficulties in Louisiana, 557.

Spinner, Francis E., member Thirty-sixth Congress, 91.
His integrity and his signature, 91.
Sprague, John T., in command sub-district of Florida, 517.
Springer, William M., member of committee on the electoral count, 637.
Opposes "lot" plan, 641.
Remarks in committee, 642.
Squatter sovereignty, 55.
"Squirrel" campaign, 190.
St. Philip, Fort, capture of, 193.
Stallworth, James A., member Thirty-sixth Congress, 97.
Took no part in the war, 96.
Stanbery, Henry, counsel against Milligan in the supreme court, 230.
Counsel in *ex-parte* Garland, 256.
Opinion construing the reconstruction acts, 378.
Counsel for President Johnson in the impeachment trial, 587.
Sketch of, 587, 588.
Speech of, in impeachment trial, 589, 590.
Stanbery, William, his affair with Houston, 301.
Standard silver dollar, 671.
Stanton, Benjamin, member Thirty-sixth Congress, 75.
Stanton, Edwin M., secretary of war, 159.
Seeks removal of McClellan, 1861, 159.
Characterized, 200.
Order against disloyal practices, 223, 224.
Requested by President Johnson to resign, 582.
Declines, 582.
Suspended, 582.
Dismissed, 582.
Star of the West, sent to supply Fort Sumter, 146.
States, indestructibility of, 30.
States of the South, temporary organization of, Tennessee, 381-383.
North Carolina, 383-388.
Mississippi, 389-395.
Georgia, 395-398.
Texas, 399-402.
Alabama, 402-409.
South Carolina, 409-416.
Florida, 416-421.
Virginia, 421-424.
Louisiana, 425-431.
Arkansas, 435-439.
States rights, the Calhoun doctrine of, 53.
A doctrine of Abolitionists, 63.
Doctrine of the, Kentucky resolutions of 1798, respecting, 103.
Position of Massachusetts and Connecticut, 106.
Relation of treaty of 1873 to ultra theory of, 262.
In the Confederacy, 305.
Assertion of, in Southern States against Confederate government, 312.
States, the seceded, theories of their status, 123.
Conditions of rehabilitation of, proposed by President Lincoln, 338.
Union of, recognized by acts of Congress, notwithstanding secession, 360, 361.
States, the seceded, remarks of President Lincoln respecting status of, 344.
Debate upon the question of their status under the Constitution, 356, 357.
Author's view of their status, 361-364.
Thaddeus Stevens' theory of status of, 366-374.
Statuary hall in the capitol, 26.
Stay law in North Carolina, course of military commander respecting, 495.
In South Carolina, 503.
Stearns, M. L., governor of Florida, 524.
Steele, John B., votes for thirteenth amendment, 326.
Stephens, Alexander H., opposition to secession in Georgia legislature and convention, 111, 112.
Sketch of, 113, 114.
Chosen Vice-President of the Confederacy, 118.
Confederate commissioner at the Hampton Roads conference, 333.
Stevens, Isaac I., delegate in the Thirty-sixth Congress, 99.
Sketch of, 99.
Service against Port Royal, 1861, 165.
Stevens, J. W., murder of, by Ku-Klux, 457.
Stevens, Thaddeus, member Thirty-sixth Congress, 75.
The Metternich of Republicanism, 75.
Theory as to status of seceded states, 123.
Financial course as chairman of committee of ways and means, 1861, 132.
Moves reconsideration of Ganson resolution respecting military incarcerations, 233.
His indebtedness to Vattel, 315.
Participates in debate of Jan. 10, 1865, respecting the peace negotiations, 336.
Attitude toward President Johnson's measures of reconstruction, 349, 350.
Sketch of, 365.
Policy and theories of, 365-374.
Speech by, 367-372.
Position of, with respect to admission of Alabama, 514.
One of the managers in the impeachment of President Johnson, 585.
Stevenson, John W., member Thirty-sixth Congress, 76.
Stewart, James A., member Thirty-sixth Congress, 92.
Judicial service, 92.
Stewart, Joseph, commander sub-district of Alexandria, 486.
Stone, Charles P., sketch of, 164.
Stockton, Robert F., his manner, 356.
Stoneman, George, commander sub-district of Petersburg, 486.
Military commander first reconstruction district, 489.
Biographical sketch of, 490, 491.
Stone River, battle of, 192.
"Stonewall Jackson," death of 198.
Stoughton, Edward W., counsel for Mr. Hayes before electoral commission, 655.
Stringham, Silas H., commanding naval forces in expedition against Hatteras, 1861, 164, 166.
Strong, G. P., counsel for the state of Missouri in the Cummings case, 251.
Strong, William, member electoral commission, 650.
Stuart, John T., interview (holidays of 1864) of Stuart and author with President Lincoln, with a view to negotiations, 310.
Stuart, J. E. B., raid across the Chickahominy, 185.
Raid into Pennsylvania, 192.
Sub-districts of Virginia, 486.
Suffrage, educational qualification of, proposed by W. D. Kelley, 342.
The oath of allegiance, the condition of, in states undergoing reconstruction, 349.
For the negro, movement toward, 376.
Right of, refused to the freedmen in Tennessee, 1866, 382.
Proposed constitutional provisions in Mississippi, 527.
In Louisiana, under constitution of 1868, 549.
Questions relating to, an issue in the campaign of 1876. 628.
Defense of liberty of, 629.
Author's speech on freedom of, 1871, 633.
Suicide of states, question of possibility, 351-353.
Sumner, Charles, appeal to Senate to erase names of battlefields of the civil war from the battle-flags, 31.
Senator Thirty-sixth Congress, 72.
Representative of the Puritan and progressive element of New England, 86.
Theory of status of the seceded states, 123.
On the maritime policy of the United States, 265.
Speech on Trent affair, 293.
Proposes to make the emancipation proclamation a statute, 340.
His opinion of the improvised state government of Virginia, 341.
Personal aspect of, 356.
Sumner, Edwin V., service in Virginia, 185.
Sumter, Fort, occupancy of, by Major Anderson, 146.
Attempt to furnish supplies to, 146.
Evacuation of, urged by Southern commissioners, 146-148.
Fired on, 149.
Evacuation of, 149.
Effect on the country, 149.
Policy of Confederate government in attacking, 150.
Supreme court, United States, decision in Cummings *vs.* the State of Missouri, 252.

Supreme Court, dissenting opinion in Cummings *vs.* the State of Missouri, 253, 254.
Union of the states recognized by, in orders of 1862 and 1865, 361.
Surrender of the Confederate cause, 214, 578.
Swayne, Noah H., dissents from opinion of the supreme court in the Cummings case, 252.
Swayne, Wager, report of, upon affairs in Georgia, 467.
In charge of sub-district of Alabama, 1867, 512.
Swepson, George W., testimony respecting corruption in North Carolina legislature, 1868-1869, 498.
Letter to Governor Reed, of Florida, May, 1869, 520.
Switzerland, the secession in, 1847, 260, 261.
Sykes, George, at battle of Mechanicsville, 185.
Tailly, John W. Rev., driven away by Ku-Klux, 471.
Tappan, Arthur, effort for education of colored people, 40.
Tappan, Mason W., member Thirty-sixth Congress, 77.
Member committee of thirty-three, 77.
Led a regiment to the field, 90.
Tariff, question of, 691.
True test of character of, 139.
Commission, fruits of, 140.
The Morrill, 282.
Question of, in politics, 629.
Of 1846, 126; 1861, 137; 1872, 139; 1883, 140.
Taylor, George, Rev., whipped by Ku-Klux, 471.
Taylor, Miles, member Thirty-sixth Congress from Louisiana, 74.
Distrustful of secession as a remedy, 74.
Member of committee of thirty-three, 77.
Member Confederate Congress, 94.
Taylor, Zachary, elected President, 1848, 48.
Telegraphs, extensive use of, in the civil war, 215.
Territories, question of exclusion of slavery from, 1784, 42.
Missouri compromise, 45.
Slavery question in Charleston convention, 58, 59.
Magnitude of the conflict respecting slavery in, 1859, 63.
Suffrage bill for, 376.
Terry, Alfred H., his operations against Fort Fisher, 212.
Test oaths, delay in repealing, 29.
No utility in, 250.
Of the Missouri constitution, as revised by the convention of January, 1865, 251.
Joint resolution of Congress, March, 1869, respecting requirement of, 528.
The system of, 602, 616.
Feature of reconstruction plans, 602.
A device for repression of republican form of government, 602.
The iron-clad oath, 602, 615.
Oath required as a qualification of jurors, 603.
Test oaths, author's efforts for repeal, 603.
To eradicate whole system, 604.
General question discussed by the author, Feb. 1, 1871, 604.
Act of Feb. 15, 1871, modifying iron-clad oath, 604.
A mockery, 605.
Tendency to produce demoralization, 605.
In England, 605-609.
The Missouri proscriptive oath, 613-615.
Two-thirds vote in the House for author's bill for repeal of, 616.
Repeal of, May 13, 1884, 616.
Repeal of, an issue in the campaign of 1876, 628.
Texas, question of annexation of, 45-48.
Growth of, 45-46.
Ultimate results of annexation of, 48.
Convention and ordinance of secession, 116, 117.
Opposition to the secession movement in, 116.
Steps toward reorganization, 1865, 399.
Provisional government, 399.
Convention of 1866, 401.
Part of the fifth military district under the reconstruction acts, 572.
Disordered condition of affairs in, at beginning of 1867, 572.
Financial condition of, 1866-1867, 572.
General Griffin in command of sub-district of, 572.
Registration in, 574.
Convention in, under reconstruction acts, 574.
Constitution for, adopted by convention, Dec., 1868, 575.
Constitution ratified, 1869, 576.
Provisions of constitution of, 1868-1869, 575, 576.
Provisions of constitution of, 1876, 575.
Readmitted to representation, 577.
Conditions of readmission of, 577.
Debt of, 577.
Tennessee, military league with the Confederate States, 120.
Ordinance of secession, 121.
Union sentiment of eastern, 153.
Military operations in, 1862, 175.
In 1863, 202.
In 1864, 209.
Loyal government in, set up during the war, 341.
Recognition of same proposed, 342.
Secedes from the Confederacy, 381.
Continued loyalty in eastern, 381.
Andrew Johnson appointed military governor of, 381.
State convention, Jan. 9, 1865, 682.
State convention nominates William G. Brownlow governor, 382.
Adopts amendments to state constitution, 382.
Amendments ratified, 382.
Restored to her federal relations, 382.
Tennessee, Ku-Klux in, 453, 454, 474.
Thayer, Eli, member Thirty-sixth Congress, 75.
Characterized, 75, 91.
Thayer, M. Russell, takes part in debate upon the power of amending the Constitution, January, 1865, 323.
Thirteenth amendment, sketch of course of, in Congress, 320-327.
Explanation of the author's vote upon the final passage of, 327.
Attitude of author toward, 328, 329.
President Lincoln's view respecting ratification of, 344.
Thomas, Benjamin F., views respecting relation of national and state powers, 82.
Words about magna charta, 235.
Thomas, Francis, member of committee of investigation preliminary to impeachment of President Johnson, 581.
Thomas, George H., at Webb's Cross Roads, 174.
In command army of the Cumberland, 202.
Services in Tennessee, 1864, 209.
Assigned to the command of the third district, 295.
Effect of his successes, 310.
Directs suspension of Bishop Wilmer from his functions, 408.
Thomas, James H., member of Thirty-sixth Congress, 95.
Sketch of, 95.
Thomas, Lorenzo, appointed secretary of war *ad interim*, 582.
Thompson, Jeff., Confederate service at Belmont, Mo., 163.
Thompson, Richard W., member of the Hayes cabinet, 669.
Throckmorton, J. W., sentiments respecting the Union, 98.
Elected governor of Texas, 1861, 401.
Removed as governor of Texas, 1867, 573.
Thurman, A. G., his bill for relief from test oaths, 603.
Member of the committee on the electoral count, 637.
Remarks in said committee, 644, 647.
Member electoral commission, 650.
Tilden, Samuel J., 635.
Tilghman, Lloyd, Confederate service at Fort Henry, 175.
Toombs, Robert, personal sketch of, as senator Thirty-sixth Congress, 70.
Member of the committee of thirteen, 77.
Attitude toward the Crittenden proposition, 77-80.
Urging secession of Georgia, 80.
Character and services to the Confederacy, 87.
Speech in the Georgia legislature, setting forth grievances, 111.

Toombs, Robert, vote in committee of thirteen on Jefferson Davis' proposition, 115.
Totten, A. O. W., member of military league commission of Tennessee, 1861, 120.
Tourgee, A. W., member of North Carolina convention of 1867, 498.
Trade dollar, authorized, 671.
Abolished, 671.
Trade, effect of restrictions upon, 69.
Train, Charles R., member Thirty-sixth Congress, 91.
Attorney-general of Massachusetts, 91.
Treaty with Great Britain of 1783, a confederacy not a union of states recognized in, 262.
Trent, our flag not lowered in the affair of the, 289.
Affair, author's opinion on, 284.
British sentiment on the affair of the, 283.
American feeling on the affair of the, 283.
The search of the, inopportune, 281, 282.
Irritating remarks of the officers of the, 280.
Legal liabilities of the, 276, 277.
Removal of the Confederate commissioners from the, 280.
Search of the, 279.
The arrest of the, 278.
The, takes on board Mason and Slidell, 276.
Affair of the, 275-293.
Mr. Sumner's speech on the affair of the, 293.
Secretary Seward's policy and course in the affair of the, 281-293.
Author's speech on the affair of the, 285, 286.
Legal aspect of the affair of the, 288.
Trimble, William H., at Harper's Ferry, 189.
Trollope, Anthony, guest at dinner of Secretary Seward after Trent affair, 291.
Troup, George McIntosh, 303.
Trumbull, Jonathan, statue of, 26.
Trumbull bill, invoked in the Milligan and Vallandigham cases, 229, 233.
Trumbull, Lyman, senator Thirty-sixth Congress, 72.
Reports measures, Feb. 18, 1865, for recognition of Louisiana, 342.
Attitude toward President Johnson's administration, 356.
Counsel for Mr. Tilden in the Louisiana case before the electoral commission, 655.
Turreted ironclads, 172.
Twitchell, Homer G., murder of, 566.
Two-thirds rule in Democratic conventions, 46, 59.
Tybee Island, Union occupation of, 166.
Tyler, Daniel, at Bull Run, 155.
Uncle Tom's Cabin, effect of, 48, 49.
Underwood, John C., presides at Virginia constitutional convention, 1867, 489.
Underwood, J. W. H., member Thirty-sixth Congress, 96.
Attitude toward secession, 96.
Union Reform party of South Carolina, 505.
Usurpation of 1877, causes of, 124.
Van Brunt, Gershom J., commanding Minnesota in expedition against Hatteras, 1861, 164.
Van Buren, Martin, opposes annexation of Texas, 46.
Presidential campaign of 1844, 47.
Presidential candidate on Free Soil ticket, 1848, 48.
Proposed member of peace commission, 1861, 315.
Vallandigham, C. L., member Thirty-sixth Congress, 76.
Biographical sketch of, 80-85.
Arrest of, 197.
Address from prison, 229.
Predicts surrender of Mason and Slidell, 284.
Vance, Robert B., Jun., member of Congress, 307.
Vance, Robert B., Sen., member of Congress, 307.
Vance, Z. B., member Thirty-sixth Congress from North Carolina, distrustful of secession as a remedy, 74.
Attitude respecting the Crittenden compromise, 78.
His voice never heard at Washington for disunion, 93.
Governor of North Carolina, 1864, 295.
His ability, 296.
His letter of Sept. 23, 1864, respecting conscription, 305.
Proposes meeting of governors, 1864, 306.
Biographical sketch of, 306-308.
Letter to Jefferson Davis, Dec. 30, 1863, 319.
Elected governor of North Carolina, 1861, as anti-secessionist, 384.
Efficiency of, as war governor, 384.
Appeal by, in favor of law and order, April 28, 1865, 384.
Vandever, William, member Thirty-sixth Congress, 99.
Military service, 99.
Van Dorn, Earl, at Pea Ridge, 174.
At Holly Springs, 194.
Vagrant act of Mississippi, 1865, 393.
Veazie bank, the, *vs.* the collector, centralizing tendency of decision in, 143, 144.
Vermont, personal liberty bills, 107.
Count of electoral vote of, 1877, 664.
Vernon, T. O. P., impeachment of, 505.
Vicksburg, capture of, 195.
Viele, Egbert S., service against Port Royal, 1861, 165.
Virginia, convention and ordinance of secession, 119.
Military league with the Confederate states, 119.
Partition of, 122.
Virginia, campaign in, 1862, 179-188; 1863, 196, 200.
Military operations in, 196, 200. 1864, 203-206.
Peace resolutions prepared in senate of, 1864, 319.
Loyal government of, 341.
Recognition of, proposed, 342.
Reconstructed government of, recognized by Johnson, 349.
Steps toward state organization in eastern, 421.
Alexandria constitution, 423.
Attempt at unification, 424.
Constitutes first military district, 480.
Military commander retains provisional officers in, 484.
Military commissioners appointed for, 485.
Sub-districts established in, 486.
Convention for constitution for, authorized, 487.
Registration of votes in, 487, 488.
Constitutional convention of, 489.
Constitution of, ratified, 492.
State officers for, elected, 492.
Readmission of, to representation, 493.
Financial condition of, 493.
Resolutions of 1798 give no sanction to secession, 103.
Resolutions of 1798, Mr. Madison's paper respecting, 104.
Virginia, the ram, 168-172.
Destruction of, 182.
Voorhees, D. W., speech in the House of Representatives, Feb. 18, 1863, denouncing policy of arbitrary arrest, 224.
Speech on the state of the Union, March, 1864, 239.
Speech and position of, respecting thirteenth amendment, Jan. 9, 1855, 321.
Wade, Benjamin F., member Thirty-sixth Congress, 72.
Characterized, 88.
Vote in committee of thirteen on Jefferson Davis' proposition, 115.
At Bull Run, 157, 158.
Seeks removal of McClellan, 1861, 159.
Reports House reconstruction bill with amendment striking out the word *white*, 339.
Protests against President Lincoln's conduct in declining to sign the reconstruction bill, 341.
Purpose of the Republican majority of the House relative to, 1868, 582.
Right of, to sit on the impeachment trial of President Johnson challenged, 586.
Waite, M. R., proposed as member of electoral commission, 638.
Wales, Josiah T., elected representative in Congress from Florida, 1870, 522.
Walker, David S., elected governor of Florida, 1865, 420.
Walker, Gilbert C., elected governor of Virginia, 492.

Walker, L. P., Confederate secretary of war, 150.
Hesitates to order an attack on Fort Sumter, 150.
Walker, Robert J., position respecting the Lecompton bill, 58.
Wallace, Lew, at Shiloh, 177.
In command at Cincinnati, 190.
Wallace-Simpson contested election case, 465.
War, what are acts of, 145.
Whether necessary, 217, 218.
Existence of, not recognized in theory by the United States, 242.
War, the civil, cost of, 214-217.
Avoidable by the adoption of the Crittenden compromise, 219.
Causes of continuance, 226.
Conditions immediately preceding the breaking out of, 241.
Act of Confederate provisional congress, May 6, 1861, respecting conduct of, 242.
The theory upon which it was prosecuted, 245.
Persistent prosecution of, urged in Congress, 1865, 314.
Jefferson Davis' views of the purpose of, January, 1864, 320.
Issues growing out of, the theme for debate during the second decade, 354.
Purpose of, 362, 363.
Warden, William W., statement of facts by, relating to impeachment trial of President Johnson, 592, 593.
Warmoth, Henry C., sketch of, 429, 560.
Delegate to Congress, 429.
Elected governor of Louisiana, 432, 550.
Statement by, concerning legislative corruption in Louisiana, 553.
Power conferred on, as governor in Louisiana, 558.
Exposure by, of legislative profligacy, 558, 559.
Warner, Hiram, 303.
Washburn, Cadwalader C., congressman, major-general, and governor, 99.
Washburne, Elihu B., member Thirty-sixth Congress, 76.
Member committee of thirty-three, 77.
Washburn, Israel, Jr., member Thirty-sixth Congress, 90.
Governor of Maine, 90.
Washington, defenses of, 153-154.
Washington, George, his estimate of slavery, 41.
Watterson, H., discusses in the House of Representatives the action of the electoral commission in the Louisiana case, 657.
Watts, Thomas H., governor of Alabama, 295.
Weaver, James B., presidential nominee of the Greenback party, 1880, 674.
Weber, Max, service in expedition against Hatteras, 1861, 164.
Webb, Alexander S., in command of the first reconstruction district, 296, 492.
Webb's Cross Roads, battle at, 174.
Webster, Edward H., member Thirty-sixth Congress from Maryland, 92.
Gave his efforts to the Union party, 92.
Weed, Thurlow, his statement of the Seward-Campbell correspondence, 148.
Weitzel, Godfrey, in command in Richmond, April, 1865, 422.
Wells, H. H., governor of Virginia, his removal and reinstatement, 296.
Reason for removal, 492.
Wells, J. Madison, governor of Louisiana, 349, 429.
Removal of, from governorship by Gen. Sheridan, 545.
Expression of opinion by Gen. Sheridan respecting, 545.
West Virginia, recognition of, an extra-constitutional measure, 341.
Formation of state of, 122.
Abnormal character of its creation, 421.
Wheeler, William A., member of committee of Congress sent to New Orleans to effect a compromise, 569.
Declared elected Vice-President, 666.
Whig party disbanded, 50.
Whipple, W. D., report by, of disorder in Mississippi, Alabama, and Georgia, November, 1866, 471.
Whiteley, William G., member Thirty-sixth Congress, 77, 92.
Member committee of thirty-three, 77.
Whitefield, George, Rev., relation of, to early slavery in Georgia, 37.
Whiting, William, view of connection of slavery with the civil war, 36.
Whitney, Ely, influence of his invention of cotton-gin, 37.
Whittlesey, Elisha, 66.
Wickliffe, G. M., impeachment of, 554.
Wigfall, Louis T., senator Thirty-sixth Congress, 69.
Personal sketch, 69.
Attitude toward the Crittenden compromise, 79.
Military and civil service to the Confederacy, 89.
Wilcox, O. B., commander subdistrict of Lynchburg, 486.
Wilderness, battle of the, 197.
Wilkes, Charles, action in case of Mason and Slidell, 276-281.
Character of, 276.
Commands United States steamship San Jacinto, 276.
Views of, on the legal position of the Trent, 276.
Determines to seize the Trent, 277.
Considers Slidell and Mason as contraband, 277.
Or, as conspirators, 278.
Intercepts the Trent, 278.
Takes off Mason and Slidell, 279.
Releases the Trent, 280.
Wilkes, Charles, secretary of the navy approves the action of, in the Trent affair, 281.
Letter acknowledging the courtesy of, 281.
Mistake of, in the Trent affair, 281, 288, 289.
British cabinet on action of, 286.
Independence of his action in Trent affair, 287.
Thanked by House of Representatives, 290.
Willard, A. J., chosen associate justice supreme court of South Carolina, 504.
Willard, George, member of committee on the electoral count, 637.
Williams, Roger, statue of, 26.
Williams, Thomas, member of committee of investigation preliminary to impeachment of President Johnson, 581.
One of the managers in the impeachment of President Johnson, 585.
Sketch of, 586.
Williamsburg, battle of, 181.
Williamson, Hugh, attitude respecting slavery, 41, 43.
Willis, M. E., murder of, 566.
Wilmer, Richard, as bishop of Alabama, instructs clergy to omit the prayer for the President, 408.
Controversy between, and General Woods, 408, 409.
Wilmot proviso, 55.
Wilson, Henry, senator Thirty-sixth Congress, 72.
Representative of Puritan and progressive element of New England, 86.
Wilson, James F., reports electoral bill from House judiciary committee, Jan. 30, 1865, 342.
Member of committee of investigation preliminary to impeachment of President Johnson, 581.
One of the managers in the impeachment of President Johnson, 585.
Sketch of, 586.
Wilson, James H., devastation of Alabama by, 1865, 402, 403.
Wilson's Creek, battle of, 163.
Winchester, investment of, by Lee, 1863, 200.
Windom, William, in Congress and the cabinet, 99.
Winslow, John A., sinks the Alabama, 211.
Winslow, Warren, member Thirty-sixth Congress, 77.
Member of committee of thirty-three, 77.
Sketch of, 93.
Winthrop, Robert C., 66.
Winthrop, John, statue to, 26.
His protest against the taking of slaves to Georgia, 37.
Wisconsin, personal liberty bill, 1858, 107.
Objection to count of electoral vote of, 1877, 664.
Vote counted, 665.
Walcott, C. P., attorney-general of Ohio, 63.

Wood, Fernando, letter of, to President Lincoln on the subject of peace, 316.
Motion of, for commissioners and recognition, Dec. 14, 1863, 316.
Calls for an investigation of the administration of the Freedmen's Bureau, 447.
Woodbridge, Frederick E., member of committee of investigation preliminary to impeachment of President Johnson, 581.
Woods, Charles A., issues order suspending Bishop Wilmer from his functions, 408.
Woodson, Samuel H., member Thirty-sixth Congress, 96.
Wool, John E., occupies Norfolk, 181.
Wooley, Charles W., interview of author with, relating to impeachment trial of President Johnson, 594.
Worden, John L., commanding the Monitor, 170, 171.
Worth, Jonathan, elected governor of North Carolina, 385.
Sketch of, 385.
Re-elected governor, 388.
Superseded by the military commander, 388.
Wright, Horatio G., service against Port Royal, 1861, 165.
Wright, J. J., chosen chief justice supreme court of South Carolina, 505.
Wright, John V., member Thirty-sixth Congress, 74.
Encourages secession, 74.
Sketch of, 95.
Wright, Silas, honorable course in presidential nominating convention, 1844, 47.
A Cato, 683.
Compared to Cleveland, 683.
Wythe, George, attitude toward slavery, 41, 43.
Yancy, William L., slavery advocated in the Charleston convention by, 59.
Yeaman, George H., favors thirteenth amendment, Jan. 9, 1865, 321.
Votes for thirteenth amendment, 326.
Yerger, Edward M., kills Lieutenant-Colonel Joseph Crane, 531.
Yorktown, siege of, 180.
Yulee, David L., senator Thirty-sixth Congress, 72.
Sketch of, 89.
Zollicoffer, Felix K., killed at Webb's Cross Roads, 174.

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